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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 7, 1911

WASHINGTON
GOVERNMENT PRINTING OFFICE
1918

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УНИВЕРСИТЕТ
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ОНСАЛ ЛИБРАРИЕС

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MESSAGE.

To the Senate and House of Representatives:

The relations of the United States with other countries have continued during the past 12 months upon a basis of the usual good will and friendly intercourse.

ARBITRATION.

The year just passed marks an important general movement on the part of the powers for broader arbitration. In the recognition of the manifold benefits to mankind in the extension of the policy of the settlement of international disputes by arbitration rather than by war, and in response to a widespread demand for an advance in that direction on the part of the people of the United States and of Great Britain and of France, new arbitration treaties were negotiated last spring with Great Britain and France, the terms of which were designed, as expressed in the preamble of these treaties, to extend the scope and obligations of the policy of arbitration adopted in our present treaties with those Governments. To pave the way for this treaty with the United States, Great Britain negotiated an important modification in its alliance with Japan, and the French Government also expedited the negotiations with signal good will. The new treaties have been submitted to the Senate and are awaiting its advice and consent to their ratification. All the essentials of these important treaties have long been known, and it is my earnest hope that they will receive prompt and favorable action.

CLAIM OF ALSOP & CO. SETTLED.

I am glad to report that on July 5 last the American claim of Alsop & Co. against the Government of Chile was finally disposed of by the decision of His Britannic Majesty George V, to whom, as *amiable compositeur*, the matter had been referred for determination. His Majesty made an award of nearly $1,000,000 to the claimants, which was promptly paid by Chile. The settlement of this controversy has happily eliminated from the relations between the Re-

public of Chile and the United States the only question which for two decades had given the two foreign offices any serious concern and makes possible the unobstructed development of the relations of friendship which it has been the aim of this Government in every possible way to further and cultivate.

ARBITRATIONS—PANAMA AND COSTA RICA—DOMINICAN REPUBLIC AND HAITI.

In further illustration of the practical and beneficent application of the principle of arbitration and the underlying broad spirit of conciliation, I am happy to advert to the part of the United States in facilitating amicable settlement of disputes which menaced the peace between Panama and Costa Rica and between Haiti and the Dominican Republic.

Since the date of their independence, Colombia and Costa Rica had been seeking a solution of a boundary dispute, which came as an heritage from Colombia to the new Republic of Panama, upon its beginning life as an independent nation. Although the disputants had submitted this question for decision to the President of France under the terms of an arbitration treaty, the exact interpretation of the provisions of the award rendered had been a matter of serious disagreement between the two countries, both contending for widely different lines even under the terms of the decision. Subsequently and since 1903 this boundary question had been the subject of fruitless diplomatic negotiations between the parties. In January, 1910, at the request of both Governments the agents representing them met in conference at the Department of State and subsequently concluded a protocol submitting this long-pending controversy to the arbitral judgment of the Chief Justice of the United States, who consented to act in this capacity. A boundary commission, according to the international agreement, has now been appointed, and it is expected that the arguments will shortly proceed and that this long-standing dispute will be honorably and satisfactorily terminated.

Again, a few months ago it appeared that the Dominican Republic and Haiti were about to enter upon hostilities because of complications growing out of an acrimonious boundary dispute which the efforts of many years had failed to solve. The Government of the United States, by a friendly interposition of good offices, succeeded in prevailing upon the parties to place their reliance upon some form of pacific settlement. Accordingly, on the friendly suggestion of this Government, the two Governments empowered commissioners to meet at Washington in conference at the State Department in order to arrange the terms of submission to arbitration of the boundary controversy.

CHAMIZAL ARBITRATION NOT SATISFACTORY.

Our arbitration of the Chamizal boundary question with Mexico was, unfortunately, abortive, but with the earnest efforts on the part of both Governments which its importance commands, it is felt that an early practical adjustment should prove possible.

LATIN AMERICA.

VENEZUELA.

During the past year the Republic of Venezuela celebrated the one hundredth anniversary of its independence. The United States sent, in honor of this event, a special embassy to Caracas, where the cordial reception and generous hospitality shown it were most gratifying as a further proof of the good relations and friendship existing between that country and the United States.

MEXICO.

The recent political events in Mexico received attention from this Government because of the exceedingly delicate and difficult situation created along our southern border and the necessity for taking measures properly to safeguard American interests. The Government of the United States, in its desire to secure a proper observance and enforcement of the so-called neutrality statutes of the Federal Government, issued directions to the appropriate officers to exercise a diligent and vigilant regard for the requirements of such rules and laws. Although a condition of actual armed conflict existed, there was no official recognition of belligerency involving the technical neutrality obligations of international law.

On the 6th of March last, in the absence of the Secretary of State, I had a personal interview with Mr. Wilson, the ambassador of the United States to Mexico, in which he reported to me that the conditions in Mexico were much more critical than the press dispatches disclosed; that President Diaz was on a volcano of popular uprising; that the small outbreaks which had occurred were only symptomatic of the whole condition; that a very large per cent of the people were in sympathy with the insurrection; that a general explosion was probable at any time, in which case he feared that the 40,000 or more American residents in Mexico might be assailed, and that the very large American investments might be injured or destroyed.

After a conference with the Secretary of War and the Secretary of the Navy, I thought it wise to assemble an Army division of full strength at San Antonio, Tex., a brigade of three regiments at Galveston, a brigade of Infantry in the Los Angeles district of southern California, together with a squadron of battleships and cruisers and

transports at Galveston, and a small squadron of ships at San Diego. At the same time, through our representative at the City of Mexico, I expressed to President Diaz the hope that no apprehensions might result from unfounded conjectures as to these military maneuvers, and assured him that they had no significance which should cause concern to his Government.

The mobilization was effected with great promptness, and on the 15th of March, through the Secretary of War and the Secretary of the Navy, in a letter addressed to the Chief of Staff, I issued the following instructions:

It seems my duty as Commander in Chief to place troops in sufficient number where, if Congress shall direct that they enter Mexico to save American lives and property, an effective movement may be made. Meantime the movement of the troops to Texas and elsewhere near the boundary, accompanied with sincere assurances of the utmost good-will toward the present Mexican Government and with larger and more frequent patrols along the border to prevent insurrectionary expeditions from American soil, will hold up the hands of the existing Government and will have a healthy moral effect to prevent attacks upon Americans and their property in any subsequent general internecine strife. Again, the sudden mobilization of a division of troops has been a great test of our Army and full of useful instruction, while the maneuvers that are thus made possible can occupy the troops and their officers to great advantage.

The assumption by the press that I contemplate intervention on Mexican soil to protect American lives or property is, of course, gratuitous, because I seriously doubt whether I have such authority under any circumstances; and if I had, I would not exercise it without express congressional approval. Indeed, as you know, I have already declined, without Mexican consent, to order a troop of Cavalry to protect the breakwater we are constructing just across the border in Mexico at the mouth of the Colorado River to save the Imperial Valley, although the insurrectos had scattered the Mexican troops and were taking our horses and supplies and frightening our workmen away. My determined purpose, however, is to be in a position so that when danger to American lives and property in Mexico threatens and the existing Government is rendered helpless by the insurrection I can promptly execute congressional orders to protect them, with effect.

Meantime I send you this letter, through the Secretary, to call your attention to some things in connection with the presence of the division in the Southwest which have doubtless occurred to you, but which I wish to emphasize.

In the first place, I want to make the mobilization a first-class training for the Army, and I wish you would give your time and that of the War College to advising and carrying out maneuvers of a useful character and plan to continue to do this during the next three months. By that time we may expect that either Ambassador Wilson's fears will have been realized and chaos and its consequence have ensued or that the present Government of Mexico will have so readjusted matters as to secure tranquillity—a result devoutly to be wished. The troops can then be returned to their posts. I understood from you in Washington that Gen. Aleshire said that you could probably meet all the additional expense of this whole movement out of the present appropriations if the troops continue in Texas for three months. I sincerely hope this is so. I observe from the newspapers that you have no blank cartridges, but I presume

that this is an error or that it will be easy to procure those for use as soon as your maneuvers begin.

Second. Texas is a State ordinarily peaceful; but you can not put 20,000 troops into it without running some risk of a collision between the people of that State, and especially the Mexicans who live in Texas near the border and who sympathize with the insurrectos, and the Federal soldiers. For that reason I beg you to be as careful as you can to prevent friction of any kind. We were able in Cuba, with the army of pacification there of something more than 5,000 troops, to maintain them for a year without any trouble, and I hope you can do the same thing in Texas. Please give your attention to this, and advise all the officers in command of the necessity for very great circumspection in this regard.

Third. One of the great troubles in the concentration of troops is the danger of disease; and I suppose that you have adopted the most modern methods for the preventing and, if necessary, for stamping out epidemics. That is so much a part of a campaign that it hardly seems necessary for me to call attention to it.

Finally, I wish you to examine the question of the patrol of the border and put as many troops on that work as is practicable, and more than are now engaged in it, in order to prevent the use of our borderland for the carrying on of the insurrection. I have given assurances to the Mexican ambassador on this point.

I sincerely hope that this experience will always be remembered by the Army and Navy as a useful means of education, and I should be greatly disappointed if it resulted in any injury or disaster to our forces from any cause. I have taken a good deal of responsibility in ordering this mobilization, but I am ready to answer for it if only you and those under you use the utmost care to avoid the difficulties which I have pointed out.

You may have a copy of this letter made and left with Gen. Carter and such other generals in command as you may think wise and necessary to guide them in their course, but to be regarded as confidential.

I am more than happy to here record the fact that all apprehensions as to the effect of the presence of so large a military force in Texas proved groundless; no disturbances occurred; the conduct of the troops was exemplary, and the public reception and treatment of them was all that could have been desired, and this notwithstanding the presence of a large number of Mexican refugees in the border territory.

From time to time communications were received from Ambassador Wilson, who had returned to Mexico, confirming the view that the massing of American troops in the neighborhood had had good effect. By dispatch of April 3, 1911, the ambassador said:

The continuing gravity of the situation here and the chaos that would ensue should the constitutional authorities be eventually overthrown, thus greatly increasing the danger to which American lives and property are already subject, confirm the wisdom of the President in taking those military precautions which, making every allowance for the dignity and the sovereignty of a friendly state, are due to our nationals abroad.

Charged as I am with the responsibility of safeguarding these lives and property, I am bound to say to the department that our military dispositions

on the frontier have produced an effective impression on the Mexican mind and may, at any moment, prove to be the only guaranties for the safety of our nationals and their property. If it should eventuate that conditions here require more active measures by the President and Congress, sporadic attacks might be made upon the lives and property of our nationals, but the ultimate result would be order and adequate protection.

The insurrection continued and resulted in engagements between the regular Mexican troops and the insurgents, and this along the border, so that in several instances bullets from the contending forces struck American citizens engaged in their lawful occupations on American soil.

Proper protests were made against these invasions of American rights to the Mexican authorities. On April 17, 1911, I received the following telegram from the governor of Arizona:

As a result of to-day's fighting across the international line, but within gunshot range of the heart of Douglas, five Americans wounded on this side of the line. Everything points to repetition of these casualties on to-morrow, and while the Federals seem disposed to keep their agreement not to fire into Douglas, the position of the insurrectionists is such that when fighting occurs on the east and southeast of the intrenchments people living in Douglas are put in danger of their lives. In my judgment radical measures are needed to protect our innocent people, and if anything can be done to stop the fighting at Agua Prieta the situation calls for such action. It is impossible to safeguard the people of Douglas unless the town be vacated. Can anything be done to relieve situation, now acute?

After a conference with the Secretary of State, the following telegram was sent to Governor Sloan, on April 18, 1911, and made public:

Your dispatch received. Have made urgent demand upon Mexican Government to issue instructions to prevent firing across border by Mexican federal troops, and am awaiting reply. Meantime I have sent direct warning to the Mexican and insurgent forces near Douglas. I infer from your dispatch that both parties attempt to heed the warning, but that in the strain and exigency of the contest wild bullets still find their way into Douglas. The situation might justify me in ordering our troops to cross the border and attempt to stop the fighting, or to fire upon both combatants from the American side. But if I take this step, I must face the possibility of resistance and greater bloodshed, and also the danger of having our motives misconstrued and misrepresented, and of thus inflaming Mexican popular indignation against many thousand Americans now in Mexico and jeopardizing their lives and property. The pressure for general intervention under such conditions it might not be practicable to resist. It is impossible to foresee or reckon the consequences of such a course, and we must use the greatest self-restraint to avoid it. Pending my urgent representation to the Mexican Government, I can not therefore order the troops at Douglas to cross the border, but I must ask you and the local authorities, in case the same danger recurs, to direct the people of Douglas to place themselves where bullets can not reach them and thus avoid casualty. I am loath to endanger Americans in Mexico, where they are necessarily exposed, by taking a radical step to prevent injury to Americans on our side of the border who can avoid it by a temporary inconvenience.

I am glad to say that no further invasion of American rights of any substantial character occurred.

The presence of a large military and naval force available for prompt action, near the Mexican border, proved to be most fortunate under the somewhat trying conditions presented by this invasion of American rights. Had no movement theretofore taken place, and because of these events it had been necessary then to bring about the mobilization, it must have had sinister significance. On the other hand, the presence of the troops before and at the time of the unfortunate killing and wounding of American citizens at Douglas, made clear that the restraint exercised by our Government in regard to this occurrence was not due to a lack of force or power to deal with it promptly and aggressively, but was due to a real desire to use every means possible to avoid direct intervention in the affairs of our neighbor, whose friendship we valued and were most anxious to retain.

The policy and action of this Government were based upon an earnest friendliness for the Mexican people as a whole, and it is a matter of gratification to note that this attitude of strict impartiality as to all factions in Mexico and of sincere friendship for the neighboring nation, without regard for party allegiance, has been generally recognized and has resulted in an even closer and more sympathetic understanding between the two Republics and a warmer regard one for the other. Action to suppress violence and restore tranquillity throughout the Mexican Republic was of peculiar interest to this Government, in that it concerned the safeguarding of American life and property in that country. The Government of the United States had occasion to accord permission for the passage of a body of Mexican rurales through Douglas, Ariz., to Tia Juana, Mexico, for the suppression of general lawlessness which had for some time existed in the region of northern Lower California. On May 25, 1911, President Diaz resigned, Señor de la Barra was chosen provisional President. Elections for President and Vice President were thereafter held throughout the Republic, and Señor Francisco I. Madero was formally declared elected on October 15 to the chief magistracy. On November 6 President Madero entered upon the duties of his office.

Since the inauguration of President Madero a plot has been unearthed against the present Government, to begin a new insurrection. Pursuing the same consistent policy which this administration has adopted from the beginning, it directed an investigation into the conspiracy charged, and this investigation has resulted in the indictment of Gen. Bernardo Reyes and others and the seizure of a number of officers and men and horses and accoutrements assembled upon the soil of Texas for the purpose of invading Mexico. Similar proceedings had been taken during the insurrection against the Diaz Gov-

ernment, resulting in the indictments and prosecution of persons found to be engaged in violating the neutrality laws of the United States in aid of that uprising.

The record of this Government in respect of the recognition of constituted authority in Mexico therefore is clear.

CENTRAL AMERICA—HONDURAS AND NICARAGUA TREATIES PROPOSED.

As to the situation in Central America, I have taken occasion in the past to emphasize most strongly the importance that should be attributed to the consummation of the conventions between the Republics of Nicaragua and of Honduras and this country, and I again earnestly recommend that the necessary advice and consent of the Senate be accorded to these treaties, which will make it possible for these Central American Republics to enter upon an era of genuine economic national development. The Government of Nicaragua, which has already taken favorable action on the convention, has found it necessary, pending the exchange of final ratifications, to enter into negotiations with American bankers for the purpose of securing a temporary loan to relieve the present financial tension. In connection with this temporary loan and in the hope of consummating, through the ultimate operation of the convention, a complete and lasting economic regeneration, the Government of Nicaragua has also decided to engage an American citizen as collector general of customs. The claims commission, on which the services of two American citizens have been sought, and the work of the American financial adviser should accomplish a lasting good of inestimable benefit to the prosperity, commerce, and peace of the Republic. In considering the ratification of the conventions with Nicaragua and Honduras, there rests with the United States the heavy responsibility of the fact that their rejection here might destroy the progress made and consign the Republics concerned to still deeper submergence in bankruptcy, revolution, and national jeopardy.

PANAMA.

Our relations with the Republic of Panama, peculiarly important, due to mutual obligations and the vast interests created by the canal, have continued in the usual friendly manner, and we have been glad to make appropriate expression of our attitude of sympathetic interest in the endeavors of our neighbor in undertaking the development of the rich resources of the country. With reference to the internal political affairs of the Republic, our obvious concern is in the maintenance of public peace and constitutional order, and the fostering of the general interests created by the actual relations of the two countries, without the manifestation of any preference for the success of either of the political parties.

THE PAN AMERICAN UNION.

The Pan American Union, formerly known as the Bureau of American Republics, maintained by the joint contributions of all the American nations, has during the past year enlarged its practical work as an international organization, and continues to prove its usefulness as an agency for the mutual development of commerce, better acquaintance, and closer intercourse between the United States and her sister American Republics.

THE FAR EAST.

THE CHINESE LOANS.

The past year has been marked in our relations with China by the conclusion of two important international loans, one for the construction of the Hukuang railways,[1] the other for the carrying out of the currency reform[2] to which China was pledged by treaties with the United States, Great Britain, and Japan, of which mention was made in my last annual message.

It will be remembered that early in 1909 an agreement was consummated among British, French, and German financial groups whereby they proposed to lend the Chinese Government funds for the construction of railways in the Provinces of Hunan and Hupeh, reserving for their nationals the privilege of engineering the construction of the lines and of furnishing the materials required for the work. After negotiations with the Governments and groups concerned an agreement was reached whereby American, British, French, and German nationals should participate upon equal terms in this important and useful undertaking. Thereupon the financial groups, supported by their respective Governments, began negotiations with the Chinese Government which terminated in a loan to China of $30,000,000, with the privilege of increasing the amount to $50,000,000. The cooperative construction of these trunk lines should be of immense advantage, materially and otherwise, to China and should greatly facilitate the development of the bountiful resources of the Empire. On the other hand, a large portion of these funds is to be expended for materials, American products having equal preference with those of the other three lending nations, and as the contract provides for branches and extensions subsequently to be built on the same terms, the opportunities for American materials will reach considerable proportions.

Knowing the interest of the United States in the reform of Chinese currency, the Chinese Government, in the autumn of 1910, sought the

[1] See Foreign Relations, 1910, p. 269. See also p. 86, this volume.
[2] Due to political disturbances in China the arrangement was not completed.

assistance of the American Government to procure funds with which to accomplish that all-important reform. In the course of the subsequent negotiations there was combined with the proposed currency loan one for certain industrial developments in Manchuria, the two loans aggregating the sum of $50,000,000. While this was originally to be solely an American enterprise, the American Government, consistently with its desire to secure a sympathetic and practical cooperation of the great powers toward maintaining the principle of equality of opportunity and the administrative integrity of China, urged the Chinese Government to admit to participation in the currency loan the associates of the American group in the Hukuang loan. While of immense importance in itself, the reform contemplated in making this loan is but preliminary to other and more comprehensive fiscal reforms which will be of incalculable benefit to China and foreign interests alike, since they will strengthen the Chinese Empire and promote the rapid development of international trade.

NEUTRAL FINANCIAL ADVISER.

When these negotiations were begun, it was understood that a financial adviser was to be employed by China in connection with the reform, and in order that absolute equality in all respects among the lending nations might be scrupulously observed, the American Government proposed the nomination of a neutral adviser, which was agreed to by China and the other Governments concerned. On September 28, 1911, Dr. Vissering, president of the Dutch Java Bank and a financier of wide experience in the Orient, was recommended to the Chinese Government for the post of monetary adviser.

Especially important at the present, when the ancient Chinese Empire is shaken by civil war incidental to its awakening to the many influences and activities of modernization, are the cooperative policy of good understanding which has been fostered by the international projects referred to above and the general sympathy of view among all the powers interested in the Far East. While safeguarding the interests of our nationals, this Government is using its best efforts in continuance of its traditional policy of sympathy and friendship toward the Chinese Empire and its people, with the confident hope for their economic and administrative development, and with the constant disposition to contribute to their welfare in all proper ways consistent with an attitude of strict impartiality as beween contending factions.

For the first time in the history of the two countries, a Chinese cruiser, the *Haichi*, under the command of Admiral Ching, recently visited New York, where the officers and men were given a cordial welcome.

NEW JAPANESE TREATY.

The treaty of commerce and navigation between the United States and Japan, signed in 1894, would by a strict interpretation of its provisions have terminated on July 17, 1912. Japan's general treaties with the other powers, however, terminated in 1911, and the Japanese Government expressed an earnest desire to conduct the negotiations for a new treaty with the United States simultaneously with its negotiations with the other powers. There were a number of important questions involved in the treaty, including the immigration of laborers, revision of the customs tariff, and the right of Americans to hold real estate in Japan. The United States consented to waive all technicalities and to enter at once upon negotiations for a new treaty on the understanding that there should be a continuance throughout the life of the treaty of the same effective measures for the restriction of immigration of laborers to American territory which had been in operation with entire satisfaction to both Governments since 1908. The Japanese Government accepted this basis of negotiation, and a new treaty was quickly concluded, resulting in a highly satisfactory settlement of the other questions referred to.

A satisfactory adjustment has also been effected of the questions growing out of the annexation of Korea by Japan.

The recent visit of Admiral Count Togo to the United States as the Nation's guest afforded a welcome opportunity to demonstrate the friendly feeling so happily existing between the two countries.

SIAM.

There has been a change of sovereigns in Siam, and the American minister at Bangkok was accredited in a special capacity to represent the United States at the coronation ceremony of the new King.

EUROPE AND THE NEAR EAST.

In Europe and the near East, during the past twelvemonth, there has been at times considerable political unrest. The Moroccan question, which for some months was the cause of great anxiety, happily appears to have reached a stage at which it need no longer be regarded with concern. The Ottoman Empire was occupied for a period by strife in Albania and is now at war with Italy. In Greece and the Balkan countries the disquieting potentialities of this situation have been more or less felt. Persia has been the scene of a long internal struggle. These conditions have been the cause of uneasiness in European diplomacy, but thus far without direct political concern to the United States.

In the war which unhappily exists between Italy and Turkey this Government has no direct political interest, and I took occasion at the suitable time to issue a proclamation of neutrality in that conflict. At the same time all necessary steps have been taken to safeguard the personal interests of American citizens and organizations in so far as affected by the war.

COMMERCE WITH THE NEAR EAST.

In spite of the attendant economic uncertainties and detriments to commerce, the United States has gained markedly in its commercial standing with certain of the nations of the Near East. Turkey, especially, is beginning to come into closer relations with the United States through the new interest of American manufacturers and exporters in the possibilities of those regions, and it is hoped that foundations are being laid for a large and mutually beneficial exchange of commodities between the two countries. This new interest of Turkey in American goods is indicated by the fact that a party of prominent merchants from a large city in Turkey recently visited the United States to study conditions of manufacture and export here, and to get into personal touch with American merchants, with a view to cooperating more intelligently in opening up the markets of Turkey and the adjacent countries to our manufactures. Another indication of this new interest of America in the commerce of the Near East is the recent visit of a large party of American merchants and manufacturers to central and eastern Europe, where they were entertained by prominent officials and organizations of the large cities, and new bonds of friendship and understanding were established which can not but lead to closer and greater commercial interchange.

CORONATION OF KING GEORGE V.

The 22d of June of the present year marked the coronation of His Britannic Majesty King George V. In honor of this auspicious occasion I sent a special embassy to London. The courteous and cordial welcome extended to this Government's representatives by His Majesty and the people of Great Britain has further emphasized the strong bonds of friendship happily existing between the two nations.

SETTLEMENT OF LONG-STANDING DIFFERENCES WITH GREAT BRITAIN.

As the result of a determined effort on the part of both Great Britain and the United States to settle all of their outstanding differences, a number of treaties have been entered into between the two countries in recent years, by which nearly all of the unsettled ques-

tions between them of any importance have either been adjusted by agreement or arrangements made for their settlement by arbitration. A number of the unsettled questions referred to consist of pecuniary claims presented by each country against the other, and in order that as many of these claims as possible should be settled by arbitration a special agreement for that purpose was entered into between the two Governments on the 18th day of August, 1910, in accordance with Article II of the general arbitration treaty with Great Britain of April 4, 1908. Pursuant to the provisions of this special agreement a schedule of claims has already been agreed upon, and the special agreement, together with this schedule, received the approval of the Senate when submitted to it for that purpose at the last session of Congress. Negotiations between the two Governments for the preparation of an additional schedule of claims are already well advanced, and it is my intention to submit such schedule as soon as it is agreed upon to the Senate for its approval, in order that the arbitration proceedings may be undertaken at an early date. In this connection the attention of Congress is particularly called to the necessity for an appropriation to cover the expense incurred in submitting these claims to arbitration.

PRESENTATION TO GERMANY OF REPLICA OF VON STEUBEN STATUE.

In pursuance of the act of Congress, approved June 23, 1910, the Secretary of State and the Joint Committee on the Library entered into a contract with the sculptor, Albert Jaegers, for the execution of a bronze replica of the statue of Gen. von Steuben erected in Washington, for presentation to His Majesty the German Emperor and the German nation in recognition of the gift of the statue of Frederick the Great made by the Emperor to the people of the United States.

The presentation was made on September 2 last by representatives whom I commissioned as the special mission of this Government for the purpose.

The German Emperor has conveyed to me by telegraph, on his own behalf and that of the German people, an expression of appreciative thanks for this action of Congress.

RUSSIA.

By direction of the State Department, our ambassador to Russia has recently been having a series of conferences with the minister of foreign affairs of Russia, with a view to securing a clearer understanding and construction of the treaty of 1832 between Russia and the United States and the modification of any existing Russian regulations which may be found to interfere in any way with the full

recognition of the rights of American citizens under this treaty. I believe that the Government of Russia is addressing itself seriously to the need of changing the present practice under the treaty and that sufficient progress has been made to warrant the continuance of these conferences in the hope that there may soon be removed any justification of the complaints of treaty violation now prevalent in this country.

I expect that immediately after the Christmas recess I shall be able to make a further communication to Congress on this subject.

LIBERIA.

Negotiations for the amelioration of conditions found to exist in Liberia by the American commission, undertaken through the Department of State, have been concluded, and it is only necessary for certain formalities to be arranged in securing the loan which, it is hoped, will place that Republic on a practical financial and economic footing.

RECOGNITION OF PORTUGUESE REPUBLIC.

The National Constituent Assembly, regularly elected by the vote of the Portuguese people, having on June 19 last unanimously proclaimed a republican form of government, the official recognition of the Government of the United States was given to the new Republic in the afternoon of the same day.

SPITZBERGEN ISLANDS.

Negotiations for the betterment of conditions existing in the Spitzbergen Islands and the adjustment of conflicting claims of American citizens and Norwegian subjects to lands in that archipelago are still in progress.

INTERNATIONAL CONVENTIONS AND CONFERENCES.

INTERNATIONAL PRIZE COURT.

The supplementary protocol to The Hague convention for the establishment of an international prize court, mentioned in my last annual message, embodying stipulations providing for an alternative procedure which would remove the constitutional objection to that part of The Hague convention which provides that there may be an appeal to the proposed court from the decisions of national courts, has received the signature of the Governments parties to the original convention and has been ratified by the Government of the United States, together with the prize court convention.

The deposit of the ratifications with the Government of the Netherlands awaits action by the powers on the declaration, signed at

London on February 26, 1909, of the rules of international law to be recognized within the meaning of article 7 of The Hague convention for the establishment of an International Prize Court.

FUR-SEAL TREATY.

The fur-seal controversy, which for nearly 25 years has been the source of serious friction between the United States and the powers bordering upon the north Pacific Ocean, whose subjects have been permitted to engage in pelagic sealing against the fur-seal herds having their breeding grounds within the jurisdiction of the United States, has at last been satisfactorily adjusted by the conclusion of the north Pacific sealing convention entered into between the United States, Great Britain, Japan, and Russia on the 7th of July last. This convention is a conservation measure of very great importance, and if it is carried out in the spirit of reciprocal concession and advantage upon which it is based, there is every reason to believe that not only will it result in preserving the fur-seal herds of the north Pacific Ocean and restoring them to their former value for the purposes of commerce, but also that it will afford a permanently satisfactory settlement of a question the only other solution of which seemed to be the total destruction of the fur seals. In another aspect, also, this convention is of importance in that it furnishes an illustration of the feasibility of securing a general international game law for the protection of other mammals of the sea, the preservation of which is of importance to all the nations of the world.

LEGISLATION NECESSARY.

The attention of Congress is especially called to the necessity for legislation on the part of the United States for the purpose of fulfilling the obligations assumed under this convention, to which the Senate gave its advice and consent on the 24th day of July last.

PROTECTION OF INDUSTRIAL PROPERTY UNION.

The conference of the International Union for the Protection of Industrial Property, which, under the authority of Congress, convened at Washington on May 16, 1911, closed its labors on June 2, 1911, by the signature of three acts, as follows:

(1) A convention revising the Paris convention of March 20, 1883, for the protection of industrial property, as modified by the additional act signed at Brussels on December 14, 1900;

(2) An arrangement to replace the arrangement signed at Madrid on April 14, 1891, for the international registration of trade-marks, and the additional act with regard thereto signed at Brussels on December 14, 1900; and

(3) An arrangement to replace the arrangement signed at Madrid on April 14, 1891, relating to the repression of false indication of production of merchandise.

The United States is a signatory of the first convention only, and this will be promptly submitted to the Senate.

INTERNATIONAL OPIUM COMMISSION.

In a special message transmitted to the Congress on the 7th of January, 1911, in which I concurred in the recommendations made by the Secretary of State in regard to certain needful legislation for the control of our interstate and foreign traffic in opium and other menacing drugs, I quoted from my annual message of December 7, 1909, in which I announced that the results of the International Opium Commission held at Shanghai in February, 1909, at the invitation of the United States, had been laid before this Government; that the report of that commission showed that China was making remarkable progress and admirable efforts toward the eradication of the opium evil; that the interested Governments had not permitted their commercial interests to prevent their cooperation in this reform; and as a result of collateral investigations of the opium question in this country I recommended that the manufacture, sale, and use of opium in the United States should be more rigorously controlled by legislation.

Prior to that time and in continuation of the policy of this Government to secure the cooperation of the interested nations, the United States proposed an international opium conference with full powers for the purpose of clothing with the force of international law the resolutions adopted by the above-mentioned commission, together with their essential corollaries. The other powers concerned cordially responded to the proposal of this Government, and, I am glad to be able to announce, representatives of all the powers assembled in conference at The Hague on the first of this month.

Since the passage of the opium-exclusion act, more than 20 States have been animated to modify their pharmacy laws and bring them in accord with the spirit of that act, thus stamping out, to a measure, the intrastate traffic in opium and other habit-forming drugs. But, although I have urged on the Congress the passage of certain measures for Federal control of the interstate and foreign traffic in these drugs, no action has yet been taken. In view of the fact that there is now sitting at The Hague so important a conference, which has under review the municipal laws of the different nations for the mitigation of their opium and other allied evils, a conference which will certainly deal with the international aspects of these evils, it seems to me most essential that the Congress should take immediate action on the antinarcotic legislation to which I have already called attention by a special message.

BUENOS AIRES CONVENTIONS.

The four important conventions signed at the Fourth Pan American Conference at Buenos Aires, providing for the regulation of trade-marks, patents, and copyrights, and for the arbitration of pecuniary claims, have, with the advice and consent of the Senate, been ratified on the part of the United States and the ratifications have been deposited with the Government of the Argentine Republic in accordance with the requirements of the conventions. I am not advised that similar action has been taken by any other of the signatory Governments.

INTERNATIONAL ARRANGEMENT TO SUPPRESS OBSCENE PUBLICATIONS.

One of the notable advances in international morality accomplished in recent years was an arrangement entered into on April 13 of the present year between the United States and other powers for the repression of the circulation of obscene publications.

FOREIGN TRADE RELATIONS OF THE UNITED STATES.

In my last annual message I referred to the tariff negotiations of the Department of State with foreign countries in connection with the application, by a series of proclamations, of the minimum tariff of the United States to importations from the several countries, and I stated that, in its general operation, section 2 of the new tariff law had proved a guaranty of continued commercial peace, although there were, unfortunately, instances where foreign governments dealt arbitrarily with American interests within their jurisdiction in a manner injurious and inequitable. During the past year some instances of discriminatory treatment have been removed, but I regret to say that there remain a few cases of differential treatment adverse to the commerce of the United States. While none of these instances now appears to amount to undue discrimination in the sense of section 2 of the tariff law of August 5, 1909, they are all exceptions to that complete degree of equality of tariff treatment that the Departmen of State has consistently sought to obtain for American commerce abroad.

While the double tariff feature of the tariff law of 1909 has been amply justified by the results achieved in removing former and preventing new, undue discriminations against American commerce, it is believed that the time has come for the amendment of this feature of the law in such way as to provide a graduated means of meeting varying degrees of discriminatory treatment of American commerce in foreign countries as well as to protect the financial interests abroad of American citizens against arbitrary and injurious treatment on

the part of foreign governments through either legislative or administrative measures.

It would also seem desirable that the maximum tariff of the United States should embrace within its purview the free list, which is not the case at the present time, in order that it might have reasonable significance to the governments of those countries from which the importations into the United States are confined virtually to articles on the free list.

RECORD OF HIGHEST AMOUNT OF FOREIGN TRADE.

The fiscal year ended June 30, 1911, shows great progress in the development of American trade. It was noteworthy as marking the highest record of exports of American products to foreign countries, the valuation being in excess of $2,000,000,000. These exports showed a gain over the preceding year of more than $300,000,000.

FACILITIES FOR FOREIGN TRADE FURNISHED BY JOINT ACTION OF DEPARTMENT OF STATE AND OF COMMERCE AND LABOR.

There is widespread appreciation expressed by the business interests of the country as regards the practical value of the facilities now offered by the Department of State and the Department of Commerce and Labor for the furtherance of American commerce. Conferences with their officers at Washington who have an expert knowledge of trade conditions in foreign countries and with consular officers and commercial agents of the Department of Commerce and Labor who, while on leave of absence, visit the principal industrial centers of the United States, have been found of great value. These trade conferences are regarded as a particularly promising method of governmental aid in foreign trade promotion. The Department of Commerce and Labor has arranged to give publicity to the expected arrival and the itinerary of consular officers and commercial agents while on leave in the United States, in order that trade organizations may arrange for conferences with them.

As I have indicated, it is increasingly clear that to obtain and maintain that equity and substantial equality of treatment essential to the flourishing foreign trade, which becomes year by year more important to the industrial and commercial welfare of the United States, we should have a flexibility of tariff sufficient for the give and take of negotiation by the Department of State on behalf of our commerce and industry.

CRYING NEED FOR AMERICAN MERCHANT MARINE.

I need hardly reiterate the conviction that there should speedily be built up an American merchant marine. This is necessary to assure favorable transportation facilities to our great ocean-borne commerce

as well as to supplement the Navy with an adequate reserve of ships and men. It would have the economic advantage of keeping at home part of the vast sums now paid foreign shipping for carrying American goods. All the great commercial nations pay heavy subsidies to their merchant marine, so that it is obvious that without some wise aid from the Congress the United States must lag behind in the matter of merchant marine in its present anomalous position.

EXTENSION OF AMERICAN BANKING TO FOREIGN COUNTRIES.

Legislation to facilitate the extension of American banks to foreign countries is another matter in which our foreign trade needs assistance.

CHAMBERS OF FOREIGN COMMERCE SUGGESTED.

The interests of our foreign commerce are nonpartisan, and as a factor in prosperity are as broad as the land. In the dissemination of useful information and in the coordination of effort certain unofficial associations have done good work toward the promotion of foreign commerce. It is cause for regret, however, that the great number of such associations and the comparative lack of cooperation between them fails to secure an efficiency commensurate with the public interest. Through the agency of the Department of Commerce and Labor, and in some cases directly, the Department of State transmits to reputable business interests information of commercial opportunities, supplementing the regular published consular reports. Some central organization in touch with associations and chambers of commerce throughout the country and able to keep purely American interests in closer touch with different phases of commercial affairs would, I believe, be of great value. Such organization might be managed by a committee composed of a small number of those new actively carrying on the work of some of the larger associations, and there might be added to the committee, as members ex officio, one or two officials of the Department of State and one or two officials from the Department of Commerce and Labor and representatives of the appropriate committees of Congress. The authority and success of such an organization would evidently be enhanced if the Congress should see fit to prescribe its scope and organization through legislation which would give to it some such official standing as that, for example, of the National Red Cross.

With these factors and the continuance of the foreign-service establishment (departmental, diplomatic, and consular) upon the high plane where it has been placed by the recent reorganization this Government would be abreast of the times in fostering the interests of its foreign trade, and the rest must be left to the energy and enterprise of our business men.

IMPROVEMENT OF THE FOREIGN SERVICE.

The entire foreign-service organization is being improved and developed with especial regard to the requirements of the commercial interests of the country. The rapid growth of our foreign trade makes it of the utmost importance that governmental agencies through which that trade is to be aided and protected should possess a high degree of efficiency. Not only should the foreign representatives be maintained upon a generous scale in so far as salaries and establishments are concerned, but the selection and advancement of officers should be definitely and permanently regulated by law so that the service shall not fail to attract men of high character and ability. The experience of the past few years with a partial application of civil-service rules to the Diplomatic and Consular Service leaves no doubt in my mind of the wisdom of a wider and more permanent extension of those principles to both branches of the foreign service. The men selected for appointment by means of the existing executive regulations have been of a far higher average of intelligence and ability than the men appointed before the regulations were promulgated. Moreover, the feeling that under the existing rules there is reasonable hope for permanence of tenure during good behavior and for promotion for meritorious service has served to bring about a zealous activity in the interests of the country, which never before existed or could exist. It is my earnest conviction that the enactment into law of the general principles of the existing regulations can not fail to effect further improvement in both branches of the foreign service by providing greater inducement for young men of character and ability to seek a career abroad in the service of the Government, and an incentive to those already in the service to put forth greater efforts to attain the high standards which the successful conduct of our international relations and commerce requires.

I therefore again commend to the favorable action of the Congress the enactment of a law applying to the Diplomatic and Consular Service the principles embodied in section 1753 of the Revised Statutes of the United States, in the civil-service act of January 16, 1883, and the Executive orders of June 27, 1906, and of November 26, 1909. In its consideration of this important subject I desire to recall to the attention of the Congress the very favorable report made on the Lowden bill for the improvement of the foreign service by the Foreign Affairs Committee of the House of Representatives. Available statistics show the strictness with which the merit system has been applied to the foreign service during recent years and the absolute nonpartisan selection of consuls and diplomatic-service secretaries who indeed, far from being selected with

any view to political consideration, have actually been chosen to a disproportionate extent from States which would have been unrepresented in the foreign service under the system which it is to be hoped is now permanently obsolete. Some legislation for the perpetuation of the present system of examinations and promotions upon merit and efficiency would be of greatest value to our commercial and international interests.

WM. H. TAFT.

THE WHITE HOUSE, *December 7, 1911.*

LIST OF PAPERS, WITH SUBJECTS OF CORRESPONDENCE.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Circulars	Mar. 14	Children of citizens born abroad. Declarations of "intention to become residents and remain citizens of the United States" have reference to the right of protection rather than citizenship under municipal law.	2
	Do	Aug. 3	Rules to prevent collisions of vessels. Transmits Treasury Department Circular No. 230 of June 27, 1911, containing.	3
77	Do	Nov. 18	Expatriation. Rule under which the presumption arising under section 2 of the act of Mar. 2, 1907, may be overcome.	1
80	Do	Dec. 9	Registration of citizens of Porto Rico and the Philippine Islands. Instruction as to procedure in the above.	2

ARGENTINA.

		1910.		
	Mr. Bliss to Mr. Bosch	Nov. 30	Presentation of a statue of George Washington to Argentina by American citizens resident there. Offers the statue to Argentina in the name of American citizens residing there.	5
	Mr. Bosch to Mr. Bliss	Dec. 23	Same subject. Expresses appreciation	6
		1911.		
830	Mr. Bliss to Mr. Knox	Feb. 20	Celebration of the hundredth anniversary of the birth of Domingo Faustino Sarmiento. Gives notice of.	7
	Mr. Villegas to Mr. Knox	Mar. 6	"Most favored nation" clause in commercial treaties. Asks to be informed of the construction of the clause by the American Government.	4
124	Mr. Wilson to Mr. Villegas	Mar. 15	Same subject. This Government maintains that this clause does not apply to privileges conceded by one contracting party to a third country in exchange for valuable and equivalent concessions.	5
	Mr. Villegas to Mr. Knox	Mar. 18	Visit of the Argentine School ship Presidente Sarmiento. Expresses appreciation for the attendance of President Taft, the Secretary of State and other members of the Government at a luncheon on board the Presidente Sarmiento.	9
	Mr. Knox to Mr. Bliss. (Telegram.)	Mar. 31	Celebration of the hundredth anniversary of the birth of Domingo Faustino Sarmiento. Sends greetings to the Government and people of Argentina.	8
125	Mr. Knox to Mr. Villegas	Apr. 1	Visit of the Argentine School ship Presidente Sarmiento. His message of Apr. 18, 1911, has been sent to its high destination.	9
	Mr. Bliss to Mr. Knox	May 13	Message of the President of Argentina. Passage referring to the United States quoted.	4
	Mr. Bosch to Mr. Bliss	May 16	Celebration of the hundredth anniversary of the birth of Domingo Faustino Sarmiento. Expresses appreciation for greetings.	8
	Mr. Bliss to Mr. Knox. (Telegram.)	May 18	Same subject. The message of greetings will be engraved on a bronze tablet and placed on the tomb of Sarmiento.	8
	Law No. 8122	June 19	Presentation of a statue of George Washington to Argentina. Authorizes accceptance of statue.	6
	Sr. Agote to the Argentine Congress.	.....	Same subject. Eloquent tribute to George Washington.	7

AUSTRIA-HUNGARY.

		1911.		
1050	Baron Hengelmuller to Mr. Knox.	Apr. 11	Trial of military fugitives by military courts in extradition cases. Moritz Ormai, being a military fugitive, will be tried by a military court, but not on the charge of desertion.	11

AUSTRIA-HUNGARY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
661	Mr. Knox to Baron Hengelmuller.	Apr. 17	Same subject. Acknowledges his note of the 11th inst. and states that this Government assumes that the Austro-Hungarian Government will not object to the trial by military courts of the United States of fugitives surrendered by that Government to this.	12
1260	Baron Hengelmuller to Mr. Knox.	May 2	Same subject. States, in reply to above that the Austro-Hungarian Government agrees to surrender fugitives to military courts of the United States, provided they have jurisdiction in the cases.	12
127	Mr. Knox to Mr. Kerens...	May 6	Extradition of Joseph and Jacob Goldberg. Instructs to report when and to what country these men will be deported.	10
249	Mr. Grew to Mr. Knox.....	June 24	Same subject. Advises that the Austrian Government has consented to grant the extradition of Joseph and Jacob Goldberg as an act of comity.	10

BELGIUM.

		1911.		
64	Count de Buisseret to Mr. Knox.	Jan. 23	Consular representation of the Kongo by Belgian Consular Officers. Informs that the Consulate General of the Kongo in the United States has been discontinued and consular affairs of the Kongo will be handled by Belgian Consular Officers.	13
	Mr. Montague to Mr. Knox.	Feb. 14	International Conference on Maritime law. Submits the report of the American delegates on Salvage and on collisions.	14
	Mr. Burlingham to Mr. Knox.	Feb. 25	Same subject. Transmits the report of the American delegates on the law of collisions.	17
115	Mr. Bryan to Mr. Knox...	Mar. 2	Recognition by Belgium of American Consular Officers in the Kongo. Reports that recognition has been granted to the American Vice and Deputy Consul General at Boma.	13
89	Mr. Wilson to Mr. Bryan...	Mar. 22	Same subject. Explains his instruction.....	13

BRAZIL.

		1911.		
	Mr. Dudley to Mr. Knox (telegram).	Jan. 2	Preferential tariff concessions in favor of American products. Executive is authorized to grant reduction in duty on flour and other products.	30
	Same to same (telegram)...	Jan. 15	Same subject. By executive decree tariff reductions are granted on certain American products.	30
	Mr. Knox to Mr. Dudley (telegram).	Jan. 19	Same subject. Expresses appreciation for preferential tariff treatment for American products.	30
	Mr. Dudley to the Minister for Foreign Affairs.	Jan. 21	Same subject. Expresses appreciation.....	30
	Mr. Dudley to Mr. Knox...	May 31	Message of the President of Brazil to Congress. Passage relating to the United States quoted.	29
	Mr. Naón to Mr. Knox (memorandum).	June 9	Preferential tariff concessions in favor of American products. As an excessive tariff reduction on American flour by the Government of Brazil would create an insuperable barrier to Argentine exportation, and to check the retaliations contemplated by the Argentine Congress, the Government of Argentina desires to receive an assurance from the Government of the United States that it has no thought of endeavoring to obtain greater concessions.	31
	Mr. Knox to Mr. Naón (memorandum).	June 13	Same subject. The Government of the United States has no present thought of seeking from the Government of Brazil greater tariff concessions on American flour than those which have already been granted. Should circumstances arise to change this situation the Argentine Government will be given six months' notice before negotiations are opened with the Government of Brazil.	32
941	Mr. Bliss to Mr. Knox.....	June 28	Same subject. The retaliatory attitude of the Argentine Congress toward American products has been changed by Department's memorandum of the 13th instant to the Argentine Legation, and a law has been passed lowering the tariff on certain American products.	33
	.....	Aug. 2	Arbitration treaty between the United States and Brazil. Text.	34

CHILE.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Mr Fletcher to Mr. Knox...	June 10	Message of the President of Chile to Congress. Passage referring to the United States quoted.	37
1738	Mr. Reid to Mr. Knox.....	July 11	Arbitration of the Alsop claim against Chile. Transmits award rendered by the King of Great Britain.	38

CHINA.

		1910.		
124	Mr. Calhoun to Mr. Knox..	Nov. 22	Illegal taxation of foreign products in Manchurian province. Numerous complaints have been made to the legation concerning this matter. Suggests that the legation be authorized to seek a solution of the difficulty on a basis more friendly to Chinese fiscal interests rather than to insist upon a strict interpretation of the treaties.	72
		1911.		
	Baron Rosen to Mr. Knox (memorandum).	Jan. 19	Plague in Manchuria. Requests views of the Government of the United States as to the means necessary to combat this menace.	56
	Mr. Knox to Baron Rosen (memorandum).	Jan. 20	Same subject. The Government of United States is disposed to support the proposal for an international commission to study the plague in Manchuria.	57
	The Prince of Ch'ing to Mr. Calhoun.	Jan. 22	Same subject. Requests that the American Government select and send specialists to Manchuria to study the plague; suggest precautionary measures and methods of cure.	58
	Prince Koudacheff to Mr. Knox (memorandum).	Jan. 27	Same subject. The Russian Government has given its assent to the request of the Chinese Government to appoint a physician to study the plague in Manchuria.	58
104	Mr. Wilson to Mr. Calhoun.	Jan. 30	Illegal taxation of foreign products in Manchurian provinces. Instructs to protest against the taxation of American products in excess of that allowed by the treaties.	74
209	Mr. Knox to Prince Koudacheff.	Feb. 9	Plague in Manchuria. The American National Red Cross has placed at the disposition of the Chinese Government a surgeon to make investigations in Manchuria in coordination with the efforts of other foreign physicians.	59
	Mr. Wilson to Mr. Calhoun (telegram).	Feb. 11	Same subject. Instructs to inform the Chinese Government that two American physicians will soon leave Manila for Peking who are being sent by the American National Red Cross to study the plague in Manchuria.	59
49	Prince Koudacheff to Mr. Knox.	Feb. 13	Same subject. Submits certain measures which will be presented to the Chinese Government for adoption againstthe plague and asks whether this Government is disposed to support these measures.	60
	Mr. Rockhill to Mr. Knox (telegram).	Feb. 14	Same subject. Reports that the Russian Government is sending a doctor and three assistants to study the plague in cooperation with investigators sent by other nations.	60
213	Mr. Wilson to Prince Koudacheff.	Feb. 17	Same subject. The Government of the United States is disposed to support the Russian Government to induce the Chinese Government to adopt reasonable measures for the combat of the plague.	61
191	Mr. Calhoun to Mr. Knox..	Feb. 28	Payment of Changsha indemnity claims. Settlement of these claims was effected Jan. 28, 1911. Incloses agreement and reports that the American claims have been paid.	79
196	Same to same.....	Mar. 6	Plague in Manchuria. Reports arrival of American physicians in Peking.	61
200	Same to same.....	Mar. 9	Illegal taxation of foreign products in Manchurian provinces. Reports further on this subject and states that the American consuls have been informed of department's attitude and have been instructed to endeavor to effect local settlements.	75
216	Mr. Loudon to Mr. Knox..	Mar. 10	Joint international opium commission. Reports postponement of the conference to July 1 next and asks whether the Government of the United States accepts the conditions of the British Government concerning the repression of the morphine and cocaine trade.	54
117	Mr. Wilson to Mr. Loudon.	Mar. 22	Same subject. The change of the date of opening of the conference is agreeable to this Government, and the proposals made by the British Government will have its earnest support.	54

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
55	Mr. Mosher to Mr. Knox...	Mar. 25	Payment of Changsha indemnity claims. Reports payment of American claims.	81
	Mr. Gracey to Mr. Knox...	Apr. 3	Naturalization of Chinese by other Governments. Incloses Chinese regulations regarding.	64
	Mr. Knox to Mr. Calhoun..	Apr. 5	International opium conference. Gives names of American delegates.	56
126	Same to same.....	May 1	Illegal taxation of foreign products in Manchurian provinces. Approves his action in instructing American consular officers to attempt to effect local settlement; hopes that the diplomatic body at Peking will bring the matter to the attention of the foreign office.	79
236	Mr. Calhoun to Mr. Knox..	May 8	Plague in Manchuria. Incloses communications from the Wai-wu Pu giving a summary of the conference held at Mukden and an expression of appreciation of the Chinese Government for American participation.	62
218	Mr. Knox to Mr. Gracey...	May 16	Naturalization of Chinese by other Governments. American citizens of Chinese birth now residing in China should be advised of the Chinese law and the Chinese authorities should be informed of their American citizenship.	66
	Mr. Chang Yin Tang to Mr. Knox.	June 19	Visit of the Chinese cruiser *Hai Chi*. Gives notice of this contemplated visit.	84
271	Mr. Heintzleman to Mr. Knox.	June 30	Naturalization of Chinese by other Governments. Comments on the Chinese law and suggests that American consuls be instructed to acquaint American citizens of Chinese birth now residing in China thereof.	67
11	Mr. Guild to Mr. Knox.....	Aug. 18	Russo-Japanese agreement as to railways in Manchuria. Incloses text of protocol signed Aug. 14, 1911.	81
	Mr. Yung Kwai to Mr. Knox.	Aug. 29	Visit of the Chinese cruiser *Hai Chi*. Advises that the vessel will arrive at New York about Sept. 10 next.	84
	Mr. Wilson to Mr. Yung Kwai.	Sept. 2	Same subject. The proper American authorities have been advised of the expected arrival of the *Hai Chi*.	84
	Mr. Wilson to Mr. Yung Kwai (telegram).	Sept. 12	Same subject. The President desires to receive Admiral Ching at 2.30 Thursday afternoon.	85
	Rear Admiral Ching to Mr. Knox.	Sept. 24	Same subject. Expresses appreciation for courtesies extended to him.	85
	Mr. Wilson to Rear Admiral Ching.	Sept. 28	Same subject. Acknowledges with satisfaction receipt of his letter of the 24th instant.	86
342	Mr. Williams to Mr. Knox.	Sept. 29	Same subject. Incloses note from the Prince of Ch'ing conveying thanks of his Government for reception accorded the Chinese cruiser *Hai Chi*.	86
	The Netherlands Minister for Foreign Affairs to Mr. Hibben.	Sept. 30	International opium conference. All the interested Governments having accepted the British proposals the conference will meet on the 1st of December next.	56
346	Mr. Williams to Mr. Knox.	Oct. 10	Right of foreigners to own land in Tientsin outside of foreign concessions. Incloses his instruction to the American consul general at Tientsin advising him that foreigners can lease land in the immediate vicinity of Tientsin provided the Chinese local authorities permit the same and register the deeds. Requests views of the department.	82
184	Mr. Knox to Mr. Heintzleman.	Oct. 18	Naturalization of Chinese by other Governments. Department approves his suggestions contained in his dispatch No. 271, of June 30, 1911.	69
192	Mr. Knox to Mr. Calhoun..	Nov. 17	Right of foreigners to own land in Tientsin outside of bounds of foreign concessions. Where the acquisition of such lands is a matter of permission and usage the deeds presented by American citizens may be registered in American consulates.	83

COLOMBIA.

	.....	1911. July 20	Message of the President of Colombia to Congress. Passage relating to the United States quoted.	87
	.....	Aug. 22	Treaties between Colombia, the United States, and Panama relating to the canal. Report of the Minister for Foreign Affairs to the Colombian Congress. Expresses hope that this dispute may finally be settled by arbitration.	88

COSTA RICA.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Carnegie to Mr. Wilson.	1910. Oct. 7	Rebuilding of the Central American Court of Justice destroyed by earthquake, May, 1910. States that he will not be a party to the erection of a temporary structure. The money appropriated must be used for the erection of a permanent structure.	89
1538	Mr. Merry to Mr. Knox....	Nov. 19	Same subject. The magistrate of Costa Rica on the Central American Court of Justice is of the opinion that the arrangement for the location and construction of the next building should be made at Washington.	89
	President Jiménez to Mr. Merry.	Dec. 21	Same subject. States that he is willing to propose a modification of the treaty to rebuild the Court in another place in Costa Rica instead of at Cartago.	90
	Mr. Merry to President Jiménez.	Dec. 22	Same subject. Informs him of the conditions imposed by Mr. Carnegie for the rebuilding of the Court.	91
	Mr. Carnegie to Mr. Knox..	1911. Jan. 12	Same subject. States that he is ready to appropriate $100,000 for the rebuilding of the Court whenever the States concerned agree upon location and provide a site.	92
65	Mr. Hitt to Mr. Knox.....	Mar. 14	Transfer of the seat of the Central American Court of Justice from Cartago to San Jose, Costa Rica. Text of convention relating to.	93
890	Mr. Knox to Mr. Monroe...	June 27	Rebuilding of the Central American Court of Justice. Incloses letter from Mr. Carnegie authorizing him to draw on him for amount appropriated.	92

CUBA.

114	Mr. Wilson to Mr. Jackson..	1910. Aug. 18	Enlargement of the U. S. Naval Station at Guantanamo. Instructs to resume negotiations. If relinquishment of the Bahia Honda lease will tend to overcome the reluctance of the Cuban Government this phase of the situation should be brought to the attention of the Foreign Office.	112
309	Mr. Jackson to Mr. Knox...	Aug. 27	Same subject. Unless otherwise instructed he will wait until after the election before bringing the matter to the attention of the Foreign Office.	113
426	Same to same.....	Oct. 31	Same subject. Reports that he has been requested by the Secretary of the Navy not to take up this matter with the Cuban Foreign Office until he has made an inspection of the Naval Station.	114
502	Same to same.....	Dec. 11	Same subject. Reports that he has not taken up with the Cuban Government the question of enlargement of the Guantanamo Naval Station.	114
212	Mr. Knox to Mr. Jackson..	1911. Jan. 7	Enlargement of the U. S. Naval Station at Guantanamo. Incloses a letter from the Navy Department, stating that the unqualified renunciation of the Bahia Honda lease is considered inexpedient.	114
546	Mr. Jackson to Mr. Knox...	Jan. 5	Proposal of France, Germany, and Great Britain to arbitrate insurrectionary claims. Joint representations were made by these powers and the Cuban Government desires to know whether the Government of the United States considers that any liability exists.	126
550	Same to same.....	Jan. 6	Adherence of Cuba to the Brussels sugar convention. Incloses a note from the Foreign Office requesting an opinion whether a reduction of certain rates in the Cuban tariff on sugar would affect the commercial relations regulated by the reciprocity treaty between Cuba and the United States.	101
626	Same to same.....	Feb. 14	Same subject. The Cuban Minister for Foreign Affairs is anxious to receive an answer to his request transmitted to Department in Legation's dispatch No. 550, of Jan. 6, 1911.	102
567	Same to same.....	Jan. 14	Enlargement of the U. S. Naval Station at Guantanamo. Reports that the Cuban Government is ready to enter into negotiations on the basis that the United States relinquish the Bahia Honda lease.	115
			Claim for the cost of intervention in Cuba, 1906 to 1909. The Cuban Secretary of State states that newspapers speak of such claims, which has caused uneasiness. Desires an authoritative statement of the nonexistence of such claims.	132

CUBA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
594	Same to same	Jan. 24	Enlargement of the United States Naval Station at Guantanamo. Has taken the matter up officially with the Cuban Secretary of State.	116
	Mr. Knox to Mr. Jackson	Jan. 25	Same subject. Incloses a letter from the Secretary of the Navy transmitting map of Guantanamo Naval Station showing the proposed extension.	117
	Mr. Dickinson to Mr. Knox	Jan. 25	Claim for the cost of intervention in Cuba, 1906 to 1909. The statement referred to in the newspapers was made by the Secretary of War before a congressional committee and was an expression of his personal views.	133
	Mr. Wilson to Mr. Jackson	Feb. 11	Same subject. The papers in this case have been submitted to the President. Upon receipt of his reply further instructions will be sent.	133
623	Mr. Jackson to Mr. Knox	...do.....	Same subject. Incloses note from the Cuban Secretary of State calling attention to the statement of Secretary of War as reported in the press.	134
			Enlargement of the U. S. Naval Station at Guantanamo. The Cuban Government desires concessions in regard to the question of jurisdiction of the entrance of the Bay of Guantanamo.	117
			Sovereignty of the Isle of Pines. The Cuban Government would be pleased if the American Congress would, by means of a resolution, define the sovereignty of the island.	135
637	Same to same	Feb. 17	Proposal to amend the reciprocity treaty between Cuba and the United States. Reports that a bill has been introduced in the Cuban Congress having in view amplification of the existing treaty.	94
644	Same to same	Feb. 22	Enlargement of the U. S. Naval Station at Guantanamo. The whole question will remain in abeyance for the present.	119
646	Same to same	Feb. 23	Cuban proposal to adhere to the Brussels Sugar Convention. The Cuban Congress passed the bill to amend the Cuban tariff on sugar.	102
	Mr. Meyer to Mr. Knox	Feb. 28	Enlargement of the U. S. Naval Station at Guantanamo. Expresses opinion that the military necessities render it inadvisable to surrender any of our jurisdiction over the shores and waters of the Bay of Guantanamo.	119
	Mr. Knox to Mr. Jackson, (telegram).	Mar. 4	Cuban proposal to adhere to the Brussels Sugar Convention. The Government of the United States will insist that the reciprocity reduction in favor of United States sugar shall remain preferential.	103
	Mr. Jackson to Mr. Knox (telegram).	Mar. 5	Same subject. Asks whether the Department has considered that although the new Cuban sugar tariff rates make the preferential infinitesimal, Cuban refinement is practically enough to supply the domestic market.	103
	Same to same (telegram)	Mar. 11	Same subject. Requests reply to his telegram of the 5th instant.	103
	Mr. Winthrop to Mr. Knox	Mar. 14	Enlargement of the U. S. Naval Station at Guantanamo. The Navy Department has no further concession to offer in return for the proposed extension.	120
	Mr. Wilson to Mr. Jackson (telegram).	Mar. 15	Cuban proposal to adhere to the Brussels Sugar Convention. Instructs to carry out Department's instructions of Mar. 4, 1911.	103
679	Mr. Jackson to Mr. Knox	Mar. 16	Same subject. Reports that he has carried out Department's instruction of the 4th instant.	104
685	Same to same	Mar. 19	Same subject. Recites the difficulties the Cuban Government finds in this matter and asks whether we will consent to a revision of the reciprocity treaty.	104
270	Mr. Wilson to Mr. Jackson	Mar. 21	Proposal to amend the reciprocity treaty between Cuba and the United States. Should circumstances favor amplification of the treaty this Government would have to ask for material increases in the preferences and this country would be entitled to respective reductions of such rates as may hereafter be provided by the Cuban tariff.	94
700	Mr. Jackson to Mr. Knox	Mar. 25	Enlargement of the U. S. Naval Station at Guantanamo. To enable him to reply fully to Mr. Sanguily's note requests reply to all the points contained in that note.	120
	Mr. Knox to Mr. Jackson (telegram).	Apr. 8	Cuban proposal to adhere to the Brussels Sugar Convention. The Department has no power to waive the American tariff preference on sugar.	103
	Mr. Jackson to Mr. Knox (telegram).	Apr. 9	Same subject. Asks whether Department does not object to the reduction of Cuban duty on sugar, provided that preferential reduction in favor of the United States is maintained by Cuba.	106
	Mr. Knox to Mr. Jackson (telegram).	Apr. 12	Same subject. The Minister has understood Department correctly.	106
278	Same to same	Apr 12	Claim for the cost of intervention in Cuba. It seems wise not to agitate the question.	120

CUBA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
277	Same to same	Apr. 12	Sovereignty of the Isle of Pines. The attitude of this Government with regard to the sovereignty over the Isle of Pines has been made clear in the treaty of Mar. 2, 1904, which has not yet been acted upon by the Senate.	136
743	Mr. Jackson to Mr. Knox	Apr. 13	Cuban proposal to adhere to the Brussels Sugar Convention. The Cuban Government is pleased at the stand taken by our Government and the Secretary of State says that Cuba always will maintain preferential treatment of American products.	106
748	Same to same	Apr. 14	Proposal, to amend the reciprocity treaty between Cuba and the United States. Reports the reintroduction of a bill in the Chamber of Representatives for this purpose.	95
758	Same to same	Apr. 17	Enlargement of the U. S. Naval Station at Guantanamo. Incloses copy of his note to the Cuban Secretary of State informing him that the Government of the United States deems it inadvisable to surrender any of its jurisdiction over Guantanamo Bay.	121
			Claim for the cost of intervention in Cuba. Incloses his note to the Cuban Secretary of State informing him of the attitude of the United States.	134
			Sovereignty over the Isle of Pines. Incloses copy of his note to the Cuban Secretary of State advising him of the attitude of the United States.	137
759	Same to same	...do...	Claim for the cost of intervention in Cuba. Reports that the Cuban Secretary of State recognizes the advisability of letting the matter rest where it now is.	135
884	Mr. Jackson to Mr. Knox	June 1	Enlargement of the U. S. Naval Station at Guantanamo. Incloses draft of an agreement just received from the Cuban Secretary of State.	122
	Mr. Knox to Mr. Jackson (telegram).	June 8	Proposal of France, Germany, and Great Britain to arbitrate certain insurrectionary claims against Cuba. Quotes an aide mémoire given to the representatives of these powers, stating that the Government of the United States would, while agreeing in principle to such arbitration, deprecate any undue pressure upon the Government of Cuba, especially at this time.	126
917	Mr. Jackson to Mr. Knox	June 9	Proposal to amend the reciprocity treaty between Cuba and the United States. Reports that the Cuban Congressional Committee has reported to the House, recommending that the Executive be authorized to request the United States Government to amplify the existing treaty.	109
	Same to same (telegram)	June 16	Proposal of France, Germany, and Great Britain to arbitrate certain insurrectionary claims against Cuba. Asks whether President Taft will act as arbitrator.	127
931	Same to same	...do...	Same subject. The Cuban Government would not be inclined to submit this matter to The Hague Court.	127
	Mr. Winthrop to Mr. Knox.	June 21	Enlargement of the U. S. Naval Station at Guantanamo. Returns with approval the draft of the agreement submitted to him.	123
965	Mr. Jackson to Mr. Knox	July 1	Proposal by France, Germany, and Great Britain to arbitrate certain insurrectionary claims against Cuba. These Governments have now formally proposed that these claims be submitted to arbitration.	128
991	Same to same	July 11	Same subject. The Cuban Government proposed yesterday that the question be submitted to President Taft.	128
	President Gómez to President Taft.	July 6	Same subject. Thanks President Taft for consenting to act as arbitrator.	128
355	Mr. Knox to Mr. Jackson	...do...	Enlargement of the U. S. Naval Station at Guantanamo. Instructs to proceed to conclude the lease agreement with the Cuban Government.	123
986	Mr. Jackson to Mr. Knox	July 8	Proposal to amend the reciprocity treaty between Cuba and the United States. The bill in question passed the Cuban Chamber of Representatives, but no action was taken by the Senate before adjournment.	110
992	Same to same	July 11	Enlargement of the U. S. Naval Station at Guantanamo. Requests instruction in regard to an article which was inadvertently omitted from the original draft.	124
	President Taft to President Gómez.	Aug. 2	Arbitration of Cuban insurrectionary claims. Acknowledges, with thanks, receipt of his letter of July 6, 1911.	129

CUBA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
1054	Mr. Jackson to Mr. Knox...	Aug. 10	Same subject. The representatives of the three Powers advised the Cuban Secretary of State that they would soon make a proposition as to the character of the arbitration "commission" and the questions which should be considered by it. Cuba is not willing to submit her case to any tribunal in which European might prevail over American views.	129
380	Mr. Knox to Mr. Jackson..	...do....	Same subject. As there are claims of American citizens of exactly the same nature President Taft has declined to act as arbitrator. Makes suggestions as to the formation of a national commission.	130
1072	Mr. Jackson to Mr. Knox..	Aug. 16	Same subject. Reports that the Cuban Secretary of State is not inclined to submit this question to any commission and maintains that Cuba has no liability in the matter at all.	131
1116	Same to same.....	Oct. 7	Proposal to amend the reciprocity treaty between Cuba and the United States. The Cámara de Comercio, Industria y Navegacion de la Isla de Cuba urges that the treaty be amended so that it will have force for five-year periods instead of one-year periods as now.	96
1134	Same to same.....	Oct. 18	Same subject. The Cuban Secretary of State desires to obtain the views of the United States Government in regard to prolonging the treaty for five-year periods, and incidentally with, if possible, additional advantages for Cuban sugar.	96
	Mr. Adee to Mr. Jackson (telegram).	Oct. 25	Same subject. This matter will be brought to the attention of the President upon his return to Washington.	97
1150	Mr. Jackson to Mr. Knox..	...do....	Same subject. Incloses copy of a note from the Cuban Secretary of State, requesting the views of this Government about the extension of the treaty for a five-year period with greater advantages for some American products and Cuban sugars and tobacco.	97
1155	Same to same.....	Oct. 27	Same subject. The Cuban Secretary of State has been informed that this matter will be submitted to President Taft upon his return to Washington.	98
1156	Same to same.....	...do....	Enlargement of the U. S. Naval Station at Guantanamo. The Cuban Secretary of State has informed me that the survey has been finished and the engineer is expected to make his report in a few days.	124
	Mr. Knox to Mr. Gibson...	Nov. 2	Proposal to amend the reciprocity treaty between Cuba and the United States. The President is willing to enter into negotiations with the Cuban Government for a new treaty which will take into account the conditions that have developed since the original treaty was ratified.	98
1182	Mr. Gibson to Mr. Knox....	Nov. 9	Arbitration of certain insurrectionary claims against Cuba. The representatives of France, Germany and Great Britain presented a joint note to the Cuban Government requesting proposals from that Government in regard to an arbitral commission or tribunal.	131
1190	Same to same.....	Nov. 13	Proposal to amend the reciprocity treaty between Cuba and the United States. Reports that he has informed the Cuban Secretary of State as instructed in Department's Nov. 2, 1911.	99
411	Mr. Knox to Mr. Gibson...	Nov. 24	Enlargement of the U. S. Naval Station at Guantanamo. Incloses a letter from the Secretary of the Navy proposing certain modifications of the draft agreement.	124
1234	Mr. Gibson to Mr. Knox...	Dec. 4	Same subject. The Cuban Secretary of State has been informed of the contents of Department's instruction No. 411 of the 24th ultimo.	125
417	Mr. Knox to Mr. Gibson....	Dec. 9	Proposal to amend the reciprocity treaty between Cuba and the United States. Instructs to inquire when a reply to Department's proposal of Nov. 2, 1911, may be expected.	100
1244	Mr. Gibson to Mr. Knox...	Dec. 12	Arbitration of certain insurrectionary claims against Cuba. He is informed that President Gómez intends to appoint a commission to study the question and to make recommendations as to the course to be taken.	132
2	Mr. Beaupré to Mr Knox...	Dec. 19	Ehlargement of the U. S. Naval Station at Guantanamo. The President of Cuba hopes to be able to lay the matter before the Senate when it reconvenes on January 8, 1912.	125
6	Same to same.....	...do....	Proposal to amend the reciprocity treaty between Cuba and the United States. The Cuban Government expects to be ready to begin negotiations for a new treaty in January, 1912.	100

DOMINICAN REPUBLIC.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
	Mr. Joubert to Mr. Knox...	Jan. 4.	Modification of the Dominican tariff. In compliance with the Dominico-American Convention of May 3, 1907, submits copy of the tariff just voted by the Dominican Congress.	139
11	Mr. Knox to Mr. Joubert...	Apr. 2	Same subject. Informs him that the Government of the United States agrees to the modifications of the Dominican tariff.	140
21	Mr. Holland to Mr. Knox..	Dec. 29	Boundary dispute between the Dominican Republic and Haiti. Reports that Haitian and Dominican troops are being sent to the frontier.	151
		1911.		
	Mr. Russell to Mr. Knox (telegram).	Jan. 2	Same subject. The Dominican Government has made the proposal to the Haitian Government that a mixed commission be sent to the frontier to determine whether Haitian territory is being encroached upon by the Dominican Republic.	152
803	Mr. Furniss to Mr. Knox...	Jan. 7	Same subject. The Haitian Government has sent a commission to the seat of the trouble on the frontier to investigate and report.	152
25	Mr. Russell to Mr. Knox...	Jan. 14	Same subject. The Dominican Government has sent two commissioners to the frontier, and it is hoped that they will arrive at a satisfactory *modus vivendi* with the Haitian commissioners.	153
808	Mr. Furniss to Mr. Knox...	Jan. 16	Same subject. Reports that the Haitian President favors arbitration of the boundary dispute.	153
	Same to same (telegram)...	Jan. 20	Same subject. The Haitian President requests the good offices of the President of the United States to urge arbitration of the boundary dispute.	154
	Same to same.....	Jan. 21	Same subject. The French and German ministers at Port au Prince are of the opinion that the United States should insist upon the maintenance of the status quo and that the matter should be submitted to arbitration.	154
	Mr. Knox to Mr. Russell (telegram).	...do....	Same subject. The Government of the United States offers its good offices to the end that a satisfactory settlement of the difficulty may be reached.	154
	Mr. Knox to Mr. Furniss (telegram).	...do....	Same subject and tenor.....	154
	Mr. Furniss to Mr. Knox (telegram).	Jan. 22	Same subject. Conveys thanks of the President of Haiti for the proffer of good offices.	155
	Mr. Russell to Mr. Cabral y Baez.	Jan. 24	Same subject. Quotes to him Department's instruction of the 21st inst.	155
814	Mr. Furniss to Mr. Knox...	Jan. 26	Same subject. Transmits official statement of the Haitian Government, published in Le Moniteur.	153
	Mr. Russell to Mr. Cabral y Baez.	...do....	Same subject. The Government of the United States is impelled to press upon the two governments the urgent necessity for an amicable adjustment of the differences, and offers its good offices to that end.	155
	Mr. Cabral y Baez to Mr. Russell.	...do....	Same subject. The Dominican Government accepts the good offices of the Government of the United States and will exhaust every effort to reach a definite solution of the vexing problem.	156
	Same to same.....	Jan. 27	Same subject. The Dominican Government agrees to suspend work on the road for a sufficient length of time for the rendering of an arbitral decision, and would be glad if Haiti would draft a convention to submit the question to arbitration.	157
	Mr. Knox to Mr. Russell...	Jan. 31	Same subject. Informs him that the Dominican Government has accepted the good offices of this government, and to urge the Haitian Government to enter into negotiations with that government	158
	Mr. Knox to Mr. Furniss...	...do....	Same subject and tenor.....	158
	Mr. Furniss to Mr. Knox (telegram).	Feb. 1	Same subject. Reports that instructions will be sent to the Haitian Minister at Washington to request the good offices of the United States to negotiate a treaty for the arbitration of the controversy.	158
	Mr. Wilson to Mr. Russell (telegram).	Feb. 16	Revolutionary movements in the Dominican Republic. The Department has reasons to believe that ex-President Morales and other Dominican exiles are about to institute a revolutionary movement and instructs him to ask the Dominican Government to take appropriate measures.	171
	Mr. Russell to Mr. Knox (telegram).	Feb. 19	Same subject. Reports on the movements and actions of Carlos Morales, who does not seem to have much prestige either in or out or outside of the Republic.	171
29	Mr. Knox to Mr. Russell...	Mar. 1	Modification of the Dominican tariff. It having come to the attention of this government that the Dominican Government has recently put in force a law imposing a stamp tax on certain articles of import, instructs him to take up this matter with the Dominican Government.	141

DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
37	Mr. Russell to Mr. Knox...	Mar. 3	Message of the President of the Dominican Republic to Congress. Quotes passages relating to the United States.	138
	Mr. Knox to Mr. Joubert...	Mar. 9	Boundary dispute between the Dominican Republic and Haiti. The Department has been informed by the Dominican Legation that the construction of the road between Padernales and Jimani is an urgent necessity. As it is proposed that the construction be continued without prejudice to the rights of Haiti, it is hoped that this matter may be arranged.	159
	Mr. Wilson to Mr. Furniss (telegram).	...do.....	Same subject. Communicates the foregoing note and instructs him to endeavor to obtain the consent of the Haitian Government.	159
	Mr. Furniss to Mr. Knox (telegram).	Mar. 11	Same subject. The President of Haiti has informed him that he can not consent to the construction of the road before a decision has been reached by the arbitral court.	159
849	Same to Same.....	Mar. 15	Same subject. Incloses correspondence with the Foreign Office in which it is stated that the Haitian Government will instruct its minister at Washington to request the American Government to negotiate the arbitration convention.	160
	Mr. Wilson to Mr. Russell (telegram).	Mar. 21	Revolutionary movements. Informs him that Morales left New York for West Indian ports.	171
	Mr. Knox to Mr. Russell...	Apr. 5	Boundary dispute between the Dominican Republic and Haiti. The Haitian Minister at Washington has received full powers to negotiate a treaty for the arbitration of the dispute and asks that similar powers be given to the Dominican Minister.	161
	Mr. Russell to Mr. Knox (telegram).	Apr. 24	Same subject. Full powers to conclude a convention has been sent to the Dominican Minister at Washington.	162
47	Same to same.....	Apr. 26	Modification of the Dominican tariff. Incloses correspondence with the Dominican Foreign Office explaining the stand the Dominican Government takes concerning the surtax and the stamp tax.	142
1140	Mr. Wilson to Mr. Bryce...	...do....	Revolutionary movements. Quotes telegram from the Governor of Porto Rico, asserting that Dominican revolutionists intend to arm a vessel in Bermuda for an expedition against the Dominican Republic.	172
	Mr. Sannon to Mr. Knox...	Apr. 27	Boundary dispute between the Dominican Republic and Haiti. Gives the history of the boundary dispute and requests the cooperation of the Department to induce the Dominican Government to conclude an arbitration treaty for the settlement of the question.	162
51	Mr. Russell to Mr. Knox...	May 5	Assault on the commanding officer of U. S. S. *Chester* by a Dominican officer. Incloses copies of correspondence with the Foreign Office, relating to the incident.	168
	Mr. Knox to Mr. Meyer....	May 26	Same subject. Transmits above dispatch and suggests that the incident be considered closed.	170
	Mr. Russell to Mr. Knox (telegram).	June 5	Revolutionary movements. Expression of appreciation from the Dominican Government for the action by the United States to frustrate attempts at a revolutionary movement.	172
	Mr. Knox to Mr. Russell (telegram).	June 6	Boundary dispute between the Dominican Republic and Haiti. The powers of the Haitian plenipotentiaries are considered too narrow by the Dominican Commissioners. Instructs to endeavor to have further instructions sent.	163
52	Same to same.....	June 14	Assault on the commanding officer of the U. S. S. *Chester* by a Dominican officer. The incident may be considered closed.	170
53	Same to same.....	June 15	Modification of the Dominican tariff. Instructs to reiterate and reaffirm Department's views as expressed in instruction No. 29, of Mar. 1, 1911.	144
	Mr. Russell to Mr. Knox (telegram).	June 20	Boundary dispute between the Dominican Republic and Haiti. The Dominican commissioners have been instructed to endeavor to effect a settlement and not to break off negotiations before consulting the American Secretary of State.	164
64	Same to Same.....	July 8	Modification of the Dominican tariff. Report compliance with Department's instruction No. 53 of June 15, 1911.	144
	Same to same (telegram)...	July 9	Assault on an American inspector of customs by a Dominican customs official. Reports on, and that he has made representations to the Dominican Foreign Office.	167
	Mr. Knox to Mr. Russell (telegram).	July 12	Same subject. Instructs to renew demand for the punishment of the offender.	167

DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
68	Mr. Russell to Mr. Knox...	July 15	Modification of the Dominican tariff. Submits lengthy report on the working of the municipal surtax.	145
71	Same to same.....	July 19	Assault on an American Inspector of Customs by a Dominican customs official. Reports that the Dominican Government has given entire satisfaction in the case.	167
79	Same to Same.....	Aug. 5	Modification of the Dominican tariff. Incloses a note from the Minister for Foreign Affairs, claiming that, in his opinion, the Government of the United States has no right to criticise the imposition of the municipal surtax.	147
80	Same to same.....	...do....	Same subject. Incloses copy of the Official Gazette containing a decree abolishing the municipal surtax on several articles of import.	149
	The Dominican Commissioners to Mr. Knox.	Aug. 30	Boundary dispute between the Dominican Republic and Haiti. On account of the recent political events in Haiti the Dominican Government is of the opinion that no action can be had on a treaty for the time being, and has authorized its commissioners to return home.	164
69	Mr. Adee to Mr. Endicott..	Oct. 23	Modification of the Dominican tariff. Gives full interpretation of the convention of 1907, stating that the Department is firmly convinced of the rightfulness of its contention that the stamp and municipal taxes affect changes in the Dominican tariff as contemplated in the convention.	149
	Mr. Furniss to Mr. Knox (telegram).	Nov. 15	Boundary dispute between the Dominican Republic and Haiti. The Haitian Government refuses to let Dominican soldiers pass between certain posts established by the Dominican Government on disputed territory.	165
	Mr. Endicott to Mr. Knox (telegram).	Nov. 20	Assassination of President Cáceres. Reports.....	174
	President Taft to Mme Cáceres (telegram).	...do	Same subject. Tenders sympathy.....	174
	Mr. Knox to Mr. Endicott (telegram).	...do	Same subject. Instructs to tender sympathy of this Government to the Dominican people.	175
	Mr. Endicott to Mr. Knox (telegram).	...do	Same subject. The funeral of the late President took place to-day. The murderer and an accessory were captured and shot.	175
	Mr. Knox to Mr. Furniss (telegram).	Nov. 22	Boundary dispute between the Dominican Republic and Haiti. Instructs to urge the advisability of an attitude of conciliation on the Haitian Government.	165
	Mr. Endicott to Mr. Knox (telegram).	...do	Revolutionary movements. The Minister for Foreign Affairs requests that the American Consul at St. Thomas be instructed to prevent an expedition under Horatio Vásquez against the Dominican Republic from leaving that port.	172
974	Mr. Furniss to Mr. Knox	Nov. 23	Boundary dispute between the Dominican Republic and Haiti. The Haitian Minister for Foreign Affairs absolutely refuses to permit the transit of Dominican soldiers through disputed territory.	165
	Mr. Knox to Count Moltke.	...do	Revolutionary movements. The Dominican Government has informed this Government that an expedition is being organized against the Dominican Government at St. Thomas.	173
	Mr. Endicott to Mr. Knox (telegram).	Nov. 25	Same subject. The Vásquez expedition is alarming the Dominican Government and it is drafting recruits.	173
	Mr. Russell to Mr. Knox (telegram).	Dec. 11	Same subject. The Minister for Foreign Affairs has informed him that Morales has effected a landing, and that another expedition is leaving from Cuba.	173
108	Same to same.....	...do	Inauguration of Eladio Victoria as Provisional President. Reports.	175
	Same to same (telegram)...	Dec. 20	Boundary dispute between the Dominican Republic and Haiti. The Minister for Foreign Affairs informs him that the Haitian Government is establishing military posts and is encroaching on Dominican territory.	166
	Mr. Knox to Mr. Furniss (telegram).	Dec. 21	Same subject. Informs him of the above telegram..	166
	Mr. Furniss to Mr. Knox (telegram).	Dec. 22	Same subject. The Haitian Government denies the above allegation, and is willing to give additional powers for negotiation to its minister at Washington.	166
993	Same to same.....	Dec. 23	Same subject. It is the keen desire of the Haitian Government to have the boundary question settled at the earliest possible moment, and will give such additional powers for negotiation to its minister at Washington as may be suggested by the Department of State.	166

DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Mr. Russell to Mr. Knox...	Dec. 23	Revolutionary movements. Reports that the Morales expedition met with complete failure, he, with a number of his adherents, being captured.	174
	Same to same (telegram)...	Dec. 29	Same subject. Zenón Torribio is reported to have landed with a revolutionary expedition. The Dominican Government has sent a strong force to meet him.	174

ECUADOR.

		1911.		
	Mr. Althaus to Mr. Combs..	Jan 2	Boundary dispute between Ecuador and Peru. Agrees to submit the question to The Hague Arbitration Tribunal.	177
	Mr. Peralta to Mr. Fox....	Jan. 16	Same subject. States at length why Ecuador can not agree to submit this to The Hague Tribunal of Arbitration.	177
	Mr. Yoacham to Mr. Knox.	Jan. 17	Same subject. The Government of Chile has answered the Ecuadorean note in the sense that it does not find sufficient grounds for the reasons adduced in its refusal to submit the question to The Hague. It is hoped that Ecuador will accept the proposal of arbitration, because that seems to be the only way out of the difficulty.	180
	Mr. Herrera to Mr. Frazier.	...do	Same subject. The Colombian Government considers it opportune to state that the solution proposed by the mediating powers will not be conducive to the ends desired. Colombia can do no less than formulate the most peremptory reservation of her rights regarding territory which she considers and defends as her own.	181
	Mr. Knox to Mr. da Gama	Apr. 8	Same subject. Suggests to the mediating powers the advisability of asking the Governments of Ecuador and Peru to submit their dispute for final settlement to the decision of amiables compositeurs, and of inviting the Government of Colombia to participate in further proceedings. Requests the views of the mediating powers.	182
	Mr. Knox to Mr. Naon.....	...do	Same subject and tenor.....	182
	Mr. Knox to Mr. Sherrill (telegram).	...do	Same subject and tenor. Instructs to repeat to the American Ambassador to Brazil.	182
	Mr. Dudley to Mr. Knox (telegram).	Apr. 13	Same subject. Reports that the suggestions of the department are acceptable to the Brazilian Government, except the suggested participation of Colombia. Since the recent secret treaty between Ecuador and Colombia there has been no territory in dispute between these two countries and a tripartite discussion between the three countries would be interminable.	184
12	Mr. Suárez to Mr. Knox....	July 12	Same subject. By reason of the old friendship binding Chile to Ecuador, and in order to serve the interests of peace on the continent, the Chilean Government will continue to labor resolutely for the purpose of finding a peaceful and satisfactory settlement of the difficulty.	184
3	Mr. Young to Mr. Knox....	Aug. 11	Message of the President of Ecuador to Congress. Quotes passages relating to the boundary dispute with Peru.	176
984	Mr. Bliss to Mr. Knox.....	Aug. 16	Boundary dispute between Ecuador and Peru. Transmits annual report of the Argentine Minister for Foreign Affairs. Passage relating to the Peru-Ecuador boundary dispute quoted.	185
4	Mr. Young to Mr. Knox....	Aug. 21	Overthrow of President Eloy Alfaro and assumption of the Presidency by Emilio Estrada. Makes full report on the recent disorders in Quito.	186
8	Same to same.....	Aug. 22	Same subject. President Alfaro resigned and Emilio Estrada was duly declared to have been legally elected President of the Republic.	187
4	Mr. Adee to Mr. Suárez....	Oct. 12	Boundary dispute between Ecuador and Peru. Acknowledges his note of July 12, 1911, and expresses appreciation.	186
	Mr. Young to Mr. Knox (telegram).	Dec. 22	Death of President Emilio Estrada. Reports.....	187
	President Taft to the Acting President of Ecuador (telegram).	...do	Same subject. Expresses sympathy.....	188
	Acting President Freile Z. to President Taft (telegram).	Dec. 25	Same subject. Expresses appreciation for telegram of condolence.	188

FRANCE.

No.	From and to whom.	Date.	Subject.	Page.
	.....	1911. Apr. 13	Arrangement between the United States and other powers relative to the repression of the circulation of obscene publications. Text.	194
	.....	July 26	Extradition treaty between the United States and France. Text.	189

GERMANY.

	.....	.....	Export duty levied by Germany on potash salts. Early history of the case.	198
	Mr. Hill to Mr. Knox (telegram).	1910. May 11	Same subject. The potash law provides that prices on after May deliveries shall not be higher than those before June 30, 1909.	205
	Mr. Wilson to Mr. Hill (telegram).	...do	Same subject. American contractors claim that the potash law was passed under misapprehension regarding the views of this Government. Instructs to see that this Government's position is thoroughly understood by the German Government.	205
	Mr. Hill to Mr. Knox (telegram).	May 12	Same subject. The German foreign office has been fully informed of our Government's position regarding potash contracts.	205
	Same to same (telegram)...	...do	Same subject. The secretary of state for foreign affairs assured me that American potash contracts will not be invalidated or impaired by the new law.	205
697	Same to same.....	May 18	Same subject. Gives résumé of correspondence on the subject and incloses a note from the foreign office which seems to be the last word we may expect from the German Government. Discusses the note in detail	206
	Mr. Knox to Mr. Hill (telegram).	June 1	Same subject. This Government must insist that the prices fixed in the potash contracts shall not be unduly increased. Instructs to advise the Department whether further representations should be made by the Department or by the private interests involved.	209
	Mr. Hill to Mr. Knox (telegram).	June 6	Same subject. Suggests immediate request for most favorable conditions obtainable under section 46.	210
	Mr. Knox to Mr. Hill (telegram).	June 7	Same subject. Instructs to urge on the Bundesrat that potash contracts made before Dec. 17, 1909, be completed as made without imposition of tax provided in paragraph 26 of the new law.	210
397	Mr. Wilson to Mr. Hill.....	June 9	Same subject. Complaints continue to be made that invoices of shipments since May 10 are coming in with the full amount of Government tax added.	211
729	Mr. Hill to Mr. Knox.....	June 23	Same subject. Incloses correspondence with the foreign office in which he made representations on the high penalty imposed upon the mine owners for overproduction, and which the American contractors are obliged to pay.	211
	Same to same (telegram)...	June 24	Same subject. The German Government suggests that all interested parties confer and come to an amicable agreement.	215
	Same to same (telegram)...	July 1	Same subject. States conditions laid down by the foreign office upon which the reduction of duty on excesses of quota shall be contingent.	215
	Mr. Wilson to Mr. Hill (telegram).	July 2	Same subject. Instructs to ascertain whether the German Government desires a conference in Berlin in July between interested parties.	216
	Mr. Hill to Mr. Knox (telegram).	...do	Same subject. The German Government agrees to a conference in August or September.	216
	Mr. Wilson to Mr. Hill (telegram).	July 5	Same subject. Department declines to recommend a conference on the basis of the conditions laid down as reported in his telegram of July 1.	216
	Same to same (telegram)...	Aug. 16	Same subject. The Department will send one of its commercial advisers to cooperate with him in the potash question.	216
801	Mr. Hill to Mr. Knox.....	Sept. 22	Same subject. Reports arrival of Mr. Davis, commercial adviser of the Department, and who will make a thorough inquiry into the ends and purpose of the German Government in passing the potash law.	217
	Mr. Adee to Mr. Hill (telegram).	Oct. 8	Same subject. The Attorney General is of the opinion that an unlawful combination has been made in Germany under cover of the potash law which affects the United States through an American corporation organized by the German mine owners, and the whole matter should be investigated by a Federal grand jury.	217

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
	Mr. Hill to Mr. Knox (telegram).	Oct. 15	Same subject. The negotiations have ended without favorable result. Mr. Davis will withhold his report until the ambassador can appeal to the chancellor for a friendly arrangement.	218
	Mr. Adee to Mr. Hill (telegram).	...do	Same subject. Instructs to cable synopsis of Mr. Davis's report before making representations to the chancellor.	218
	Mr. Hill to Mr. Knox (telegram).	Oct. 17	Same subject. Reports that a satisfactory arrangement can be made if he can have Department's authority.	218
	Mr. Knox to Mr. Hill (telegram).	Oct. 18	Same subject. Authorizes him to confer with the chancellor, maintaining the dignity of this Government and its firm attitude in this matter.	219
	Mr. Hill to Mr. Knox (telegram).	Oct. 24	Same subject. States conditions upon which he has consented to mediate unofficially.	219
	Same to same (telegram)...	Nov. 6	Same subject. Reports failure to obtain a definite proposition for settlement of the potash question. States attitude of the German Government.	219
493	Mr. Knox to Mr. Hill.....	Nov. 23	Presentation of a statue of Gen. von Steuben to Germany by the United States. Incloses an act of Congress authorizing this presentation. Instructs to ascertain whether the German Government will provide the pedestal for the statue.	243
	Same to same (telegram)...	Dec. 20	Export duty levied by Germany on potash salts. Aide memoire reiterating the attitude of the United States. Instructs to present it textually to the German Government and to state that the President desires to have it brought to the special attention of the German Emperor.	220
	Mr. Hill to Mr. Knox (telegram).	Dec. 23	Same subject. Department's aide memoire was presented to the chancellor, and he requests time for reply.	221
		1911.		
	Mr. Knox to Mr. Hill (telegram).	Jan. 12	Same subject. Instructs to press for an early reply to Department's aide memoire of the 20th inst., and to inform the chancellor that action by the Bundesrat which does not provide for relief of American contracts from penalty taxes and the refunding of taxes now paid will not satisfy the President.	221
	Count von Bernstorff to Mr. Knox.	Jan. 31	Same subject. Incloses a long memorandum of the German Government stating its views concerning the potash question and declaring its willingness to enter into friendly negotiations for the settlement of the differences.	222
893	Mr. Hill to Mr. Knox.....	Feb. 8	Same subject. Discusses at length above memorandum and refutes certain claims made therein.	227
	Mr. Knox to Count von Bernstorff.	Feb 7	Same subject. Calls attention to his offer to ascertain, as a basis for further discussion, how much below the syndicate price of 1909 the German Government could suggest a price at which the American contracts could be met and requests his earnest efforts to bring this question to a settlement.	229
	Mr. Wilson to Count von Bernstorff.	Feb. 11	Same subject. Advises him that the German Government has demanded payment of excess-production tax from an American corporation, exporting its entire product to the United States, and that, in the opinion of this Government, no tax should be demanded.	229
	Count von Bernstorff to Mr. Knox.	Feb. 15	Same subject. It has been declared heretofore that the American purchasers did not have to bear the excess-production tax, any statement differing from the above must be supported by a notarial declaration by which the purchasers expressly recognize their liability, or arbitration must decide this question.	230
	Mr. Wilson to Count von Bernstorff.	Mar. 9	Same subject. Informs him that the Government of the United States suspends further diplomatic action on this case and suggests that the German Government join this Government to bring about an early conference between the German interests concerned and the representatives of the American parties to the contracts.	231
416	Same to same.....	Mar. 17	Same subject. Advises him that the German Government is willing to defer collection of the tax demanded from the American corporation, provided it furnishes bank guarantee of payment. As all the property of this corporation is located in Germany it requested that this requirement be waived.	233
	Same to same.....	Mar. 21	Same subject. Requests early reply to Department's note of Mar. 9, 1911.	234

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Count von Bernstorff to Mr. Knox.	Mar. 29	Same subject. The German Government concurs in the suggestion that a settlement of the potash question be reached privately and recommends that the conference be held at Brussels.	235
	Mr. Knox to Count von Bernstorff.	Apr. 3	Same subject. Urges that the conference be held at New York no later than the 24th of this month.	235
	Count von Bernstorff to Mr. Knox.	Apr. 8	Same subject. The German interested parties insisted that the conference be held at Hamburg. The German Government induced them, however, to accept Brussels instead.	236
	Mr. Wilson to Count von Bernstorff.	Apr. 14	Same subject. The American interested parties urgently request that the conference be held at New York or at Montreal.	237
	Same to same.....	Apr. 27	Same subject. The representatives of the American interests have accepted Brussels as the meeting place of the conference. Suggests May 15 for the opening of the conference.	237
	Count von Bernstorff to Mr. Knox.	May 1	Same subject. Advises that Brussels has been chosen as the meeting place and May 15 as the date of opening of the conference.	238
	Mr. Knox to Mr. Hill (telegram).	May 6	Presentation of a statue of Gen. von Steuben to Germany. Instructs to ascertain whether the appointment of Hon. Richard Bartholdt as the President's representative is acceptable to the German Emperor.	244
	Mr. Davis to Mr. Knox....	May 11	Export duty levied by Germany on potash salts. Reports telephone communication with the German ambassador in which the latter stated that his Government desired to hold the conference at Berlin instead of Brussels. As Mr. Davis was assured that the American interested parties agreed to this change he had also agreed thereto.	238
	Mr. Hill to Mr. Knox (telegram).	May 30	Presentation of a statue of Gen. von Steuben to Germany. Appointment of Hon. Richard Bartholdt as the President's representative is agreeable to the German Emperor.	244
	Mr. Hale to Mr. Hill (telegram).	May 31	Same subject. Instructs to ascertain whether the appointment of C. P. Wolfram as additional representative of the President is agreeable to the German Emperor.	245
974	Mr. Hill to Mr. Knox.....	June 13	Same subject. Reports that the statue will be erected at Potsdam.	245
	Same to same (telegram)...	June 20	Same subject. Appointment of Wolfram is agreeable to the German Emperor. September 2 is proposed as the date for the presentation.	245
	The German Emperor to President Taft (telegram).	Sept. 2	Same subject. Conveys thanks for himself and the German people for the statue which has just been unveiled.	245
	President Taft to the German Emperor (telegram).	...do....	Same subject. Appreciation of above telegram which will be communicated to the Congress of the United States.	246

GREAT BRITAIN.

		1910.		
236	Mr. Innes to Mr. Knox.....	Nov. 28	Coronation of King George V. Incloses a proclamation fixing the date for the coronation. Requests to be informed whether the President will send a representative.	251
871	Mr. Hill to Mr. Knox.....	Dec. 29	Additional protocol to the International Prize Court Convention. The governments which have not as yet ratified the convention have been advised that they are not obliged to ratify the convention if they accept the additional protocol.	247
		1911.		
	.....	Jan. 12	Fisheries in Canadian and Newfoundland treaty waters. Text of minutes of, conference held at Washington the 9th, 10th, 11th, and 12th of January, 1911.	271
	.....	Jan. 14	Same subject. Text of minutes of conference held at Washington the 13th and 14th of Januuary, 1911.	272
1	Mr. Knox to Mr. Castrillo, jr.	Jan. 19	Additional protocol to the International Prize Court Convention. Incloses copy of protocol and circular note of the Netherlands Government of May 24, 1910, and urges acceptance by the Nicaraguan Government.	248
	Mr. Knox to Mr. Reid (telegram).	Feb. 1	Same subject. Instructs to ascertain whether it is true, as reported, that the ratification of the protocol will be postponed by Great Britain until after the coronation.	249

GREAT BRITAIN—Continued.

No.	From and to whom	Date.	Subject.	Page.
		1911.		
	Mr. Knox to President Taft	Feb. 1	Same subject. Incloses the protocol for transmission to the Senate. States reasons for the necessity of its adoption.	249
20	Mr. Bryce to Mr. Knox....	Feb. 2	Coronation of King George V. Advises that the state visits will commence on June 19 and will terminate on the 28th of that month.	252
28	Same to same.....	Feb. 17	Same subject. All maritime powers have been invited to attend the naval review to be held June 24. Asks to be informed, if the United States accepts the invitation, of the name of the vessel which will be sent.	252
1111	Mr. Wilson to Mr. Bryce...	Mar. 18	Same subject. The U. S. S. Delaware will represent this Government at the naval review.	252
1145	Mr. Knox to Mr. Bryce....	May 5	Same subject. Advises him that the President has appointed Mr. John Hays Hammond ambassador on special mission to represent the Government of the United States.	253
	Mr. Bryce to Mr. Knox....	June 1	Same subject. Transmits rules and arrangements adopted concerning exchange of visits and salutes by commanders of foreign warships. Asks to be informed whether they are acceptable to this Government.	253
	Mr. Knox to Mr. Bryce....	June 6	Same subject. The above arrangements are entirely satisfactory to this Government.	254
	President Taft to King George V (telegram).	June 22	Same subject. Felicitations.....	254
	King George V to President Taft (telegram).	June 22	Same subject. Thanks for above telegram.....	254
	.....	July 19	Arbitration of pecuniary claims. Special agreement between the United States and Great Britain. Text and schedule of claims.	266
825	Mr. Loudon to Mr. Knox ..	Aug. 14	Additional protocol to the International Prize Court Convention. Advises that all the States signatory to the convention have signed the additional protocol.	251
168	Mr. Bryce to Mr. Knox....	Aug. 28	Coronation of King George V. Incloses a letter from the King to the President, acknowledging letter of credence presented by Ambassador Hammond.	255
	Mr. Wilson to Mr. Bryce...	Sept. 7	Same subject. Above letter will be transmitted to the President.	255
	.....	Dec. 14	Preservation and protection of fur seals. Treaty between the United States and Great Britain. Text.	256
	.....	Dec. 14	Same subject. Convention between the United States, Great Britain, Japan, and Russia. Text.	260

GUATEMALA.

		1910.		
203	Mr. Sands to Mr. Knox....	Sept. 16	Rights of American citizens arrested in Guatemala and kept incomunicado. The Mexican press announces that all foreigners arrested in Mexico will in future be permitted to communicate with their diplomatic and consular representatives. Requests authority to approach the Guatemalan Government on this subject.	274
212	Mr. Sands to Mr. Knox....	Sept. 28	Same subject. Reports his conversation with the President of Guatemala concerning the minister's difficulty in obtaining information about cases involving American interests, and that the President promised that he would instruct the judiciary to answer confidential requests made by the minister or consul general.	274
		1911.		
68	Mr. Knox to Mr. Hitt.....	Apr. 17	Same subject. Instructs to say to President Cabrera that this Government would appreciate the modification of the system of "incomunicacion" which prevails in Guatemala. Refers to the case of arrest of Thomas J. McCullough.	275
85	Mr. Hitt to Mr. Knox.....	May 10	Same subject. Incloses a note from the foreign office stating that instructions have been issued permitting American citizens, under arrest in Guatemala, to apprise their consular officers of detention.	276
96	Same to same.....	May 27	Same subject. Incloses note from the Foreign Office transmitting a circular telegram which authorizes American citizens under arrest in Guatemala to communicate with their diplomatic and consular officers and other persons.	277

GUATEMALA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
74	Mr. Knox to Mr. Hitt.....	June 2	Same subject. Acknowledges his No. 85 and points out an apparent discrepancy between the President's observations and the note of the minister for foreign affairs.	278
84	Mr. Knox to Mr. Stabler...	July 27	Same subject. Acknowledges Mr. Hitt's No. 96.....	279
125	Mr. Stabler to Mr. Knox...	Aug. 19	Same subject. Transmits the explanation of the minister for foreign affairs concerning the apparent discrepancy between the statement of the President and the note from the foreign office.	279

HAITI.

		1911.		
892	Mr. Furniss to Mr. Knox...	June 22	Revolution in Haiti. The President is leaving Port au Prince to investigate the report that arms have been landed at Fort Liberté, and that that section is soon to revolt.	281
	Mr. Russell to Mr. Knox (telegram).	July 13	Same subject. The Dominican minister for foreign affairs stated that many of the Haitian forces are deserting into the Dominican Republic. Their return has been demanded, but the Dominican Government has refused to surrender them.	281
	Mr. Furniss to Mr. Knox (telegram).	July 17	Same subject. Government officials admit that a strong undercurrent is developing against the Government.	282
	Same to same (telegram)...	...do....	Same subject. Gonaives is reported to be in the hands of the revolutionists. An American war vessel is desirable at Port au Prince.	282
	Same to same (telegram)...	July 20	Same subject. Practically all of the north is in the hands of the revolutionists. The President returned and will form a new cabinet.	282
	Same to same (telegram)...	...do....	Same subject. He was advised yesterday by the Haitian Government that the cities of St. Marc and Gonaives would be bombarded. He protested against such action.	282
	Same to same (telegram)...	July 21	Same subject. The Government is tottering, and the diplomatic corps considers the presence of a war vessel necessary.	282
	Mr. Knox to Mr. Furniss (telegram).	July 22	Same subject. Approves his July 20, and instructs him to inform the Haitian Government that it will be held strictly responsible for any damage sustained by American citizens.	282
	Mr. Furniss to Mr. Knox (telegram).	...do....	Same subject. The towns within 10 miles of Port au Prince have fallen, and the Government can not survive many hours.	283
	Same to same (telegram)...	July 23	Same subject. Several towns will be blockaded by the Haitian Government. He has informed it that the blockade must be effective to be respected.	283
	Same to same (telegram)...	July 24	Same subject. The President of Haiti informed the diplomatic corps that he had sufficient force to guarantee protection to foreigners. Asks to be advised of the status of the crew of the yacht American which was turned over to the Haitian Government.	283
	Same to same (telegram)...	July 27	Same subject. The situation is becoming more serious. Aux Cays and several other towns in the west have revolted. The Congress is hurriedly passing numerous concessions because of better terms offered.	283
	Same to same (telegram)...	July 28	Same subject. While the President realizes that the condition is serious, he will not surrender the Government until it becomes absolutely necessary. The United States should be prepared to use a strong hand to prevent incendiarism, massacre, and pillage.	283
	Same to same (telegram)...	July 31	Same subject. At a meeting of the diplomatic corps some were of the opinion that President Simon should be requested to leave, and that some action should be taken to prevent further executions.	284
	Same to same (telegram)...	Aug. 1	Same subject. The President, in an interview this morning, admitted the seriousness of the situation, but seemed to think that he had a chance to overcome the revolution.	284
	Same to same (telegram)...	...do....	Same subject. The President has informed the diplomatic corps that he is ready to resign and requests three days' armistice to arrange his affairs.	284
	Same to same (telegram)...	...do....	Same subject. The President has asked permission to embark on an American war vessel. Asks instructions.	285

HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Same to same (telegram)...	Aug. 1	Same subject. Armistice will be respected by the local revolutionary leaders.	285
	Same to same (telegram)...	Aug. 2	Same subject. The Government is attempting to obtain all available funds from the bank, but has been told by the diplomatic corps that the armistice does not permit this.	285
	Mr. Knox to Mr. Furniss (telegram).	...do....	Same subject. Instructs that temporary refuge may be granted to President Simon to save innocent human life.	285
	Mr. Furniss to Mr. Knox (telegram).	...do....	Same subject. The President embarked on the Haitian war vessel formerly the American.	285
	Same to same (telegram)...	Aug. 3	Same subject. The German war vessel landed about 40 men, although there was no apparent necessity for such action.	286
	Same to same (telegram)...	...do....	Same subject. The President and his family have left on a Dutch vessel bound for Jamaica.	286
	Same to same (telegram)...	Aug. 4	Same subject. Firministes continue to dominate Port au Prince; Leconte is approaching at the head of an army. Fighting should not be allowed in the streets. Requests instructions.	286
	Mr. Knox to Mr. Furniss (telegram).	Aug. 5	Same subject. Instructs to caution American citizens to observe a strictly neutral attitude.	286
	Mr. Knox to Mr. Meyer....	...do....	Same subject. Informs him of the serious condition existing at Port au Prince and requests that the naval commander there be instructed to prevent armed conflict within the city limits.	286
	Mr. Furniss to Mr. Knox (telegram).	Aug. 6	Same subject. The general commanding the revolutionary forces has been advised by the diplomatic corps that no armed conflict will be permitted at Port au Prince.	287
	Same to same (telegram)...	...do....	Same subject. Leconte has been proclaimed chief of the executive power and has entered Port au Prince.	287
	Same to same (telegram)...	Aug. 7	Same subject. He has been informed that the Germans have made large advances to the Leconte movement, and they have offered Leconte a loan of $200,000.	287
	Mr. Knox to Mr. Furniss (telegram).	Aug. 10	Same subject. Instructs to make clear to the facto government that the United States insists on the safe-guarding of American interests. He is not to recognize the new Government until satisfactory assurances are given.	288
	Mr. Furniss to Mr. Knox (telegram).	Aug. 12	Same subject. Leconte, through his counselor of state, informed the minister that he desired to have as much American capital participate in the loans to be made by the banks as possible; that he guaranteed protection to all American interests; and that he would equitably adjust claims resulting from the recent revolt.	288
	Mr. Knox to Mr. Furniss (telegram).	Aug. 13	Same subject. Department considers it most important that the above assurances be made in writing.	289
	Mr. Furniss to Mr. Knox (telegram).	Aug. 15	Same subject. Reports inauguration of President Leconte; gives names of cabinet officers. The Government is advertising for subscriptions to a loan.	289
	Same to same (telegram)...	...do....	Same subject. In reply to department's Aug. 13, quotes note from the counselor of state giving assurances referred to.	289
	Mr. Knox to Mr. Furniss (telegram).	Aug. 18	Same subject. Authorizes him to recognize the Leconte government.	290
	Mr. Furniss to Mr. Knox (telegram).	Aug. 19	Same subject. He will recognize the Leconte government this day. Suggests that the naval commander be instructed to fire a salute.	290
923	Same to same (telegram)...	Aug. 21	Same subject. Reports interview with President Leconte, incident upon the recognition of the new government on the 19th inst.	290

HONDURAS.

		1910.		
47	Mr. McCreery to Mr. Knox..	July 28	Revolution in Honduras. Information has been received that Lee Christmas is preparing to invade Honduras from Guatemala.	291
51	Same to same.....	Aug. 11	Same subject. Reports that some Americans have been arrested for being connected with the revolutionary movement.	291
	Same to same (telegram)...	Nov. 3	Same subject. At an interview the President of Honduras requested the decisive cooperation of the United States to prevent the landing of revolutionary expeditions in Honduras.	292

HONDURAS—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
	The Honduran Legation to Mr. Knox.	Dec. 8	Same subject. Advises that Gens. Bonilla and Christmas are in New Orleans and are preparing an expedition against Honduras. They have bought the steamship Hornet which will sail from New Orleans and which will be supplied with war munitions after leaving that port.	292
	Mr. Wilson to the Honduran Legation.	Dec. 12	Same subject. The information contained in the above memorandum has been communicated to the proper authorities.	293
	Mr. Hitt to Mr. Knox (telegram).	Dec. 21	Same subject. The consular agent at Livingston, Guatemala, reports the departure of two vessels with arms and ammunition for Honduras, that the Hornet is expected to arrive soon.	293
	The Honduran Legation to Mr. Knox.	Dec. 26	Same subject. Advises that Gens. Bonilla and Christmas left New Orleans, probably on the Hornet.	293
112	Mr. McCreery to Mr. Knox..	Dec. 27	Same subject. Incloses correspondence between the ministers for foreign affairs of Honduras and Guatemala concerning the report that Honduran exiles are about to invade Honduras. Guatemala will take all necessary measures to prevent a breach of neutrality.	294
		1911.		
	Mr. Lazo A. to Mr. Knox..	Jan. 18	Same subject. Advises that the owners of the Hornet have made a pretended sale of the vessel to evade the neutrality laws of the United States.	294
20	Mr. Knox to Mr. Lazo A...	Jan. 19	Same subject. The information contained in the above note has been communicated to the Attorney General for such action as may be necessary.	295
	Mr. McCreery to Mr. Knox (telegram).	Jan. 20	Same subject. One hundred men have gathered near Camayagua where an uprising was expected.	295
	.....	...do.....	Same subject. Decree declaring the Republic under martial law.	296
122	Mr. McCreery to Mr. Knox..	Jan. 25	Same subject. Incloses an official statement published in La Prensa of the inauguration and progress of the Bonilla revolutionary movement.	295
	Same to same (telegram)...	Jan. 27	Same subject. Reports that Ceiba and San Marcos de Colon have been taken by the revolutionists	296
	President Dávila to President Taft (telegram).	Jan. 28	Same subject. Requests intervention by the United States to terminate the war.	297
	Mr. McCreery to Mr. Knox (telegram).	Jan. 29	Same subject. States that President Dávila desires the United States to act as arbitrator in the present situation.	297
	Same to same (telegram)...	...do.....	Same subject. Suggests as a convenient order of procedure: Armistice approval of convention by Congress, and an agreement as to the presidency.	297
	Same to same (telegram)...	...do.....	Same subject. The President is ready to deliver the presidency to any person designated by the United States.	297
	Same to same (telegram)...	Jan. 30	Same subject. The President of Honduras desires that the United States approve the designates, as he thinks this is the only way his retirement can benefit his country.	298
	Mr. Knox to Mr. McCreery (telegram).	Jan. 31	Same subject. Quotes instructions sent to the naval commander in Honduran waters as to the prevention of fighting in Puerto Cortes and the arbitration of the present difficulty.	298
	President Taft to President Davila (telegram).	...do.....	Same subject. Acknowledges his telegram of the 28th instant and refers to the above instruction sent to the American minister.	298
	Mr. Wilson to Mr. McCreery (telegram).	Feb. 10	Same subject. Mediation by the United States. Informs him that Thomas C. Dawson, of the American Diplomatic Service, has been instructed to proceed to Puerto Cortes to facilitate an equitable of the present difficulty.	299
	Mr. Wilson to Mr. Dawson..	Feb. 11	Same subject. Instructions to proceed to Puerto Cortes and to use his impartial good offices to compose the existing controversy.	299
	Mr. Knox to Mr. Dawson (telegram).	Feb. 21	Same subject. The indictment of Bonilla, Christmas, and others for breach of the United States neutrality statutes in the *Hornet* case will not affect the attitude of this Government in the mediation conference.	300
	.....	Mar. 4	Peace conference held on board the U. S. S. *Tacoma*. Extracts from the minutes.	300
	Mr. Dawson to Mr. Knox (telegram).	...do	Same subject. Reports that President Davila accepts the peace arrangement, that he and the Vice President will resign and that Congress will elect Bertrand as first designate.	302
	Same to same (telegram)...	...do.....	Same subject. The peace conference requests that the revolutionary leaders be informed of the peace arrangements.	302
	Same to same (telegram)...	Mar. 7	Same subject. Reports the election of Bertrand as first designate.	303

HONDURAS—Continued.

No.	From and to whom.	Date.	Subject.	Page
		1911.		
	Mr. McCreery to Mr. Knox (telegram).	Mar. 10	Same subject. The conference resolved that the new executive should take the oath at Puerto Cortes and that Davila should act as military commander until his arrival at Tegucigalpa.	303
145	Same to same.....	Mar. 12	Same subject. Incloses copy of his communication to the revolutionary commander advising him of the peace arrangements.	303
	Same to same (telegram)...	Mar. 13	Same subject. Reports that he telegraphed Mr. Dawson the President's proposal to resign and that Bertrand be inaugurated at Tegucigalpa.	304
	The Peace Conference to President Taft.	Mar. 14	Same subject. Vote of thanks for his mediation....	304
	Mr. McCreery to Mr. Knox (telegram).	...do.....	Same subject. Reports that the Congress accepted the resignation of the Vice President.	305
	Mr. Dawson to Mr. Knox (telegram).	Mar. 16	Same subject. Reports resignation of the Vice President, the election of Bertrand as first designate.	305
	Mr. McCreery to Mr. Knox (telegram).	Mar. 17	Same subject. Reports that the conference extended to him a vote of thanks for his services in its labors for peace.	305
160	Same to same.....	Mar. 25	Same subject. Reports the reception of President Designate Bertrand.	305
	Mr. Knox to the Peace Conference.	Mar. 28	Same subject. Communicates the President's appreciation of the vote of thanks tendered to him by the Peace Conference.	306
163	Mr. McCreery to Mr. Knox.	Apr. 1	Same subject. Incloses copy of a manifesto issued by President Bertrand to the nation.	306
	Mr. Knox to Mr. McCreery (telegram).	Apr. 11	Same subject. Status of the *Hornet*. Instructs to ascertain whether the Honduran Government desires to regularize the status of this vessel by a change of registry or whether it is to be returned to the United States. The Department of Justice has been instructed to nolle prosse the indictment against Gen. Bonilla.	307
211	Mr. Wright to Mr. Knox...	July 25	Same subject. Reports termination of the period of martial law by public proclamation.	307
44	Mr. White to Mr. Knox....	Nov. 1	Election of Manuel Bonilla as President of Honduras. Reports.	307

ITALY.

		1908.		
403	Baron Mayor to Mr. Root..	Feb. 7	International expositions at Rome and Turin in comemmoration of the 50th anniversary of the proclamation of the Kingdom of Italy. Gives notice of, and requests participation of the United States.	312
592	Mr. Root to Baron Mayor..	Feb. 19	Same subject. The question of official participation by the Government of the United States will be given consideration by the department at the next session of Congress.	312
	Mr. Bacon to Mr. Straus...	Feb. 26	Same subject. Requests notice in the Daily Consular Reports.	313
		1910.		
	President Taft to Congress.	Jan. 25	Same subject. Approves and recommends the recommendation of the Secretary of State for the participation of the United States.	313
	Mr. Knox to Baron Mayor..	Jan. 29	Same subject. Incloses Sen. Doc. 321, 61st Cong., 2d sess., containing request made to Congress for provision to enable this Government to participate.	313
	Mr. Wilson to Mr. Leishman (telegram).	Apr. 30	Same subject. Advises that Congress appropriated $130,000 for this Government's participation.	314
		1911.		
	Mr. Hilles to Mr. Knox....	Feb. 8	Medical inspection of Italian immigrants. Requests that arrangement be made with the Italian Government whereby Italian surgeons detailed on emigrant vessels be instructed to report all details of any sickness occurring in Italian immigrants to the quarantine officers in the United States.	309
167	Mr. Knox to Mr. Leishman.	Feb. 28	Same subject. Incloses copy of above letter and instructs to take up the matter with the Italian Government.	310
426	Mr. Wilson to Mr. Knox...	July 26	Same subject. Incloses note from the foreign office stating that instructions have been given to Italian surgeons to make the desired reports.	310
	Mr. Wilson to Mr. MacVeagh.	Sept. 8	Same subject. Advises him of the above.....	311
	Memorandum from the Italian Embassy.	Sept. 30	War between Italy and Turkey. Advises of declaration of.	308
	Mr. Adee to Signor Cambiaso.	Oct. 27	Same subject. Incloses copies of the proclamation of neutrality issued by the President.	308

JAPAN.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
	Mr. Wilson to Mr. O'Brien (telegram).	Sept. 18	Exterritorial jurisdiction in Chosen. Asks for more specific information in regard to the judicial system now in operation in Chosen.	320
1235	Mr. O'Brien to Mr. Knox..	Oct. 4	Same subject. Incloses copy of his note to the Japanese foreign office asking for the information requested in department's telegram of the 18th ultimo.	321
1239	Same to same.....	Oct. 14	Same subject. Incloses a note from the Japanese foreign office giving information on this subject. The information not being considered sufficiently definite he has addressed another note to the foreign office.	322
	Mr. Schuyler to Mr. Knox (telegram).	Oct. 24	Same subject. Quotes unsatisfactory passage in the reply of the foreign office concerning land ownership in Chosen.	325
1262	Same to same.....	Nov. 17	Same subject. Discusses the difference between the Japanese and Korean land laws.	325
1266	Same to same.....	Nov. 29	Same subject. Incloses copy of a note from the Japanese foreign office regarding change of venue in criminal cases affecting Americans.	327
1274	Same to same.....	Dec. 13	Same subject. Incloses a report from the American consul general at Seoul calling attention to the regulations promulgated by the Japanese governor general in regard to land laws which wholly ignore the existence of land records in the foreign consulates.	328
1279	Same to same.....	Dec. 27	Same subject. Incloses a copy of his note to the foreign office in regard to the land laws in Korea, to which no reply has as yet been received, but he is informed that the regulations will be amended.	330
		1911.		
	Mr. Knox to Mr. O'Brien (telegram).	Jan. 23	Same subject. Asks whether any progress has been made.	331
	Mr. O'Brien to Mr. Knox (telegram).	Jan. 25	Same subject. The foreign office declares that land titles of foreigners will be respected and consular registrations will be treated as prima facie valid.	331
	Same to same (telegram)...	Feb. 6	Same subject. The minister for foreign affairs confirms the above statement.	331
1296	Same to same.....	Feb. 7	Same subject. The procedure in criminal cases involving American citizens will, upon request of the accused, be transferred to the competent court at Seoul.	332
1297	Same to same.....	...do....	Same subject. Incloses correspondence with the foreign office confirming his telegram of the 25th ultimo.	333
	.....	Apr. 5	Treaty of commerce and navigation between the United States and Japan. Text.	315
	Mr. O'Brien to Mr. Knox..	Apr. 8	Exterritorial jurisdiction in Chosen. Incloses report from the consul general at Seoul that the matter about the land laws has been satisfactorily settled.	335
	Same to same (telegram)...	Aug. 14	Extradition of criminals from and to the Philippine Islands. The Japanese Government requests to be informed whether the Philippine Islands are considered within our extradition treaty.	336
	Mr. Knox to Mr. O'Brien (telegram).	Aug. 16	Same subject. Under act of Feb. 6, 1905, the Philippine Islands are included in our extradition treaties.	336

LIBERIA.

		1910.		
	Mr. Knox to Mr. Lyon (telegram).	June 18	Financial reforms in Liberia. It is necessary for Liberia to appoint a financial representative. Department suggests appointment of R. P. Falkner, and submits form of credentials.	342
	Mr. Lyon to Mr. Knox (telegram).	June 21	Same subject. Reports that he has been officially informed of Falkner's appointment as financial representative of Liberia.	342
	Mr. Wilson to Mr. Lyon (telegram).	June 22	Same subject. Falkner's credentials should be issued as quoted in department's June 18.	343
	Mr. Knox to Mr. Lyon (telegram).	June 23	Same subject. Additional credentials should be given to Falkner, to enable him secure options on outstanding indebtedness.	343
	Mr. Lyon to Mr. Knox (telegram).	June 24	Same subject. The Liberian Government has complied with above suggestion.	343
	.....	Not dated.	Same subject. Informal statement for the guidance of Mr. Falkner and the American banking group.	344

LIBERIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
709	Mr. Reid to Mr. Knox (telegram).	Nov. 3	The Liberia-Sierra Leone boundary. The British Government requests the good offices of the Government of the United States to hasten the settlement of this question.	338
1413	Mr. Knox to Mr. Reid.....	Nov. 15	Same subject. The department will gladly lend its good offices for the settlement of the boundary question and desires a statement of the offer made to Liberia.	339
	Mr. Pichon to Mr. Bacon...	Dec. 5	Financial reforms in Liberia. The French Government is ready to give its adhesion to the proposals of the American Government, subject to the receipt of assurances as to absolute economic equality, the settlement of the Franco-Liberian boundary question, and the participation of France in the financial organization.	344
	.....	Dec. 13	Message of the President of Liberia to Congress. Passages relating to the United States quoted.	337
		1911.		
	Mr. Bryce to Mr. Knox.....	Jan. 16	The Liberia-Sierra Leone boundary. Requests that the American Minister at Monrovia be instructed to support the British proposals for the settlement of this question which is now before the Liberian Senate.	339
	Mr. Knox to Mr. Crum (telegram).	Jan. 19	Same subject. Instructs him in the sense of the above note.	340
	Mr. Knox to Mr. Reid (telegram).	...do.....	Same subject. Advises him of the above.....	340
	Mr. Knox to Mr. Bryce....	Jan. 23	Same subject and purport.....	341
	Mr. Bryce to Mr. Knox....	Jan. 24	Same subject. Thanks for the above.....	341
	Mr. Crum to Mr. Knox (telegram).	Jan. 27	Same subject. The boundary agreement has been ratified by the Senate.	341
1569	Mr. Phillips to Mr. Knox...	Feb. 1	Same subject. Incloses note from Sir Edward Grey expressing thanks for the action taken by the Government of the United States.	341
	Mr. Pichon to Mr. Bacon...	Feb. 2	Financial reforms in Liberia. The French Government agrees to the American proposals.	345
			Franco-Liberian boundary. Advises that the boundary question was settled by the signing of the delimitation act.	345
	Sir Edward Grey to Mr. Reid.	June 13	Financial reforms in Liberia. The British Government agrees to the American proposals.	346
470	Mr. Knox to Count von Bernstorff.	June 29	Same subject. Submits the amended proposal of the Government of the United States and requests an official assurance that the same is acceptable to the German Government.	345
	Count von Bernstorff to Mr. Knox.	June 30	Same subject. The German Government accepts the above proposals.	346
	Mr. Knox to Mr. Bryce....	Dec. 21	Same subject. Incloses a copy of the final revise of the loan agreement as approved by the Liberian Government.	347

MEXICO.

		1906.		
359	Mr. Thompson to Mr. Root.	Dec. 14	Overflow of the Colorado River into the Imperial Valley, Cal. Reports conversation with President Diaz. The Mexican Government is willing to permit the United States to do anything that is necessary to control the waters of the Colorado River.	525
375	Same to same.....	Dec. 27	Same subject. Confirms his telegrams concerning the action taken by the Mexican Government.	527
		1907.		
	President Roosevelt to Congress.	Jan. 12	Same subject. Message reciting the facts, stating the conditions and recommending that Congress make a specific appropriation for the purpose of restoring the broken levees.	528
		1908.		
397	Mr. Root to Mr. Thompson.	Jan. 29	Same subject. Instructs to suggest to the Mexican Government the appointment of an engineer to study, jointly with an American Government engineer, the question of the equitable distribution of the waters of the Colorado River for irrigation purposes.	535
925	Mr. Thompson to Mr. Root.	Feb. 27	Same subject. Incloses his note to the Mexican foreign office submitting the above suggestion.	536
421	Mr. Bacon to Mr. Thompson.	Mar. 5	Same subject. Incloses copy of a letter from the Secretary of the Interior requesting authority for a surveying party to conduct surveys on Mexican territory in the vicinity of the Colorado River.	537
	Mr. Thompson to Mr. Root (telegram).	Apr. 2	Same subject. This Government concedes all asked.	538

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1908.		
984	Same to same	Apr. 2	Same subject. Incloses copy of a note from the foreign office agreeing to the request stated in department's 421.	538
479	Mr. Bacon to Mr. Thompson.	Apr. 25	Same subject. Incloses copy of a letter from the Secretary of the Interior advising of the appointment of Louis C. Hill as commissioner to study the question of the distribution of the waters of the Colorado River.	539
1054	Mr. Thompson to Mr. Root.	May 8	Same subject. The Mexican Government has been advised of the above and has appointed Sr. Fernando Beltrán y Puga as its commissioner.	540
490	Mr. Bacon to Mr. Thompson	May 11	Same subject. Incloses copy of a letter from the Secretary of the Interior advising that the surveying party will not start until the fall and requesting further necessary documents.	540
		1910.		
	.....	June 25	Same subject. Public Resolution No. 43, appropriating one million dollars for the protection of the lands along the Colorado River.	541
	Mr. Wilson to Mr. Wilson (telegram).	July 23	Same subject. Advises him of the above and of the appointment of J. A. Ockerson to investigate and make recommendation in the matter.	541
156	Mr. Wilson to Mr. Knox...	July 30	Same subject. The Mexican Government has granted facilities to the Ockerson expedition.	542
127	Mr. Knox to Mr. Wilson...	Oct. 26	Same subject. Incloses copy of the report of Mr. Ockerson for transmission to the Mexican Government and instructs to request permission for the erection of levees on Mexican territory.	542
453	Mr. Shanklin to Mr. Knox..	Nov. 1	Permission for foreigners arrested in Mexico to be visited by their diplomatic and consular officers. Incloses the order issued by the Mexican Government authorizing.	618
	Mr. Adee to Mr. Wilson (telegram).	Nov. 7	Overflow of the Colorado River. Instructs to endeavor to obtain permission for the erection of levees on Mexican territory, as matter is very urgent.	544
	.....	.....	Political affairs in Mexico. Historical sketch of political affairs preceding the revolutionary movements. Includes the manifesto of Francisco I. Madero and the Plan of San Luis Potosi.	348
241	Mr. Wilson to Mr. Knox....	Nov. 10	Same subject. Reports mob attacks on American citizens and American property incited by the publication of an editorial in connection with the burning of a Mexican for the murder of an American woman at Rock Springs, Tex.	354
	Mr. Knox to Mr. de la Barra	Nov. 11	Same subject. Transmits a message of good will from President Taft to President Diaz.	357
	Mr. Wilson to Mr. Knox (telegram).	Nov. 12	Overflow of the Colorado River. The foreign office will give an answer to department's urgent request as soon as the plans are properly studied.	545
	Mr. Wilson to Mr. Creel....	...do....	Political affairs in Mexico. Calls attention to anti-American demonstrations and attacks on American citizens in Guadalajara and insists that steps be taken to prevent a recurrence.	357
	Mr. Creel to Mr. Wilson....	...do....	Same subject. Orders have been issued to prevent a recurrence of recent events in Guadalajara.	358
	Mr. de la Barra to Mr. Knox	Nov. 13	Same subject. Thanks for the message from President Taft to President Diaz.	358
	Mr. Wilson to Mr. Knox (telegram).	Nov. 14	Same subject. President Diaz requests that the American Government take steps against Mexican revolutionists who are purchasing arms and ammunition in the United States.	358
	Mr. Hale to Mr. Wilson (telegram).	Nov. 15	Same subject. Above has been communicated to Department of Justice.	359
245	Mr. Wilson to Mr. Knox...	...do....	Same subject. In an interview President Diaz stated to the Ambassador that the recent demonstrations were not so much anti-American as anti-Government, and requested the Ambassador to lend his aid to prevent the importation of arms and ammunition into Mexico from the United States.	359
	President Diaz to Mr. Wilson.	...do....	Same subject. Expresses appreciation of the message of good will from President Taft.	360
249	Mr. Wilson to Mr. Knox...	Nov. 16	Same subject. Incloses additional memorandum of his interview with President Diaz relating to the anti-American demonstrations.	361
	Mr. de la Barra to Mr. Knox	...do....	Same subject. Advises that he is informed that Francisco I. Madero is obtaining arms and ammunition through a friend in San Antonio, Tex. Requests that steps be taken to prevent breach of neutrality laws of the United States.	362

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
249	Same to same	Nov. 16	Same subject. Advises that the Mexican Government is in possession of documents showing that Madero is carrying on revolutionary propaganda in the United States against Mexico.	362
	Mr. Knox to Mr. de la Barra	...do.....	Same subject. Above memoranda have been communicated to the Department of Justice.	363
253	Mr. Wilson to Mr. Knox...	Nov. 18	Permission for foreigners arrested in Mexico to be visited by their diplomatic and consular officers. Transmits order to this effect from the Mexican Foreign Office.	619
	Mr. Wilson to President Díaz.	...do.....	Political affairs in Mexico. Anti-American propaganda in Mexican newspapers. Complains of.	363
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Same subject. Attempts of Francisco I. Madero. The Mexican Government asks that Madero and Magón, who is acting with him, be prosecuted for violating the neutrality laws of the United States.	363
	Mr. Adee to Mr. Wilson (telegram).	Nov. 19	Same subject. In case of violation of the neutrality or penal laws of the United States prompt action will be taken.	364
	Mr. de la Barra to Mr. Knox	...do.....	Same subject. Asks that the American frontier be guarded to prevent the entrance of armed rebels who are being recruited in Texas into Mexico.	364
	Mr. Knox to Mr. de la Barra	...do.....	Same subject. Above memorandum has been communicated to the Secretary of War and the Attorney General.	364
	Mr. Ellsworth to Mr. Knox (telegram).	Nov. 22	Same subject. Reports capture of Guerrero by the revolutionists.	365
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Overflow of the Colorado River. President Diaz states that he has no authority to permit the erection of levees on Mexican territory. Suggests negotiation of a treaty.	545
	Gen. Hoyt to Gen. Ainsworth (telegram).	Nov. 23	Political affairs in Mexico. States that situation on the border is much exaggerated in the papers.	365
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Same subject. Revolutionists are crossing into Mexico from Texas and Arizona. One American has been killed at Parral.	365
	Mr. de la Barra to Mr. Knox.	...do.....	Same subject. Reports further activities of Madero in the United States. Requests arrest of Mexican agitators.	366
	Mr. Creel to Mr. Wilson....	Nov. 24	Same subject. Anti-American articles in Mexican newspapers have been suppressed.	366
	Mr. de la Barra to Mr. Knox.	Nov. 25	Same subject. Advises that certain Mexicans are preparing aid in Los Angeles for the Mexican revolutionists.	366
	Same to same	...do.....	Same subject. Requests the arrest of Madero, who is reported to be in the United States.	367
	Same to same	...do.....	Same subject. The Mexican Government appreciates that the United States Government has given orders for the suppression of all violations of neutrality laws.	367
	Mr. Knox to Mr. Wilson (telegram).	Nov. 26	Overflow of the Colorado River. The levee project will be fully explained to the Mexican Government by a representative of the Department of the Interior. States the aims and attitude of this Government.	545
272	Mr. Wilson to Mr. Knox...	...do.....	Political affairs in Mexico. Gives his impressions of recent revolutionary movement in Mexico which has been suppressed by the Government, but the cause has not been removed.	367
	Mr. Wilson to Mr. de la Barra.	Nov. 28	Overflow of the Colorado River. Suggests the negotiation of a treaty for the maintenance of the levee after its completion.	546
362	Mr. de la Barra to Mr. Knox.	...do.....	Political affairs in Mexico. Requests arrest of two Mexicans, agents of Madero, who are stirring up trouble in Texas.	368
	Mr. Knox to Mr. de la Barra.	Nov. 29	Same subject. The officers of the Government of the United States stand ready to institute proceedings against all violators of the neutrality laws upon production of evidence. The Federal officers of this Government have been most active in preventing hostile operations on this side of the border.	368
	Same to same	...do.....	Same subject. The memorandum of the Mexican Embassy of the 28th instant has been communicated to the Department of Justice. Invites attention to Department's memorandum of this date.	369
	Same to same	...do.....	Same subject. His memorandum of the 25th instant has been communicated to the Department of Justice.	369
152	Mr. Knox to Mr. Wilson...	...do.....	Same subject. His action as reported in his 241 is approved.	370
	Mr. Fowler to Mr. Knox....	Nov. 30	Same subject. Orders have been issued for the arrest of Francisco I. Madero.	370

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
152	Mr. Wilson to Mr. Knox (telegram).	Dec. 1	Overflow of the Colorado River. The Mexican Ambassador at Washington has been authorized to exchange notes with the department for the immediate construction of the protection works on the Colorado River.	546
353	Mr. Knox to Mr. de la Barra	...do.....	Political affairs in Mexico. Under the American Constitution liberty of speech and of the press is guaranteed and mere propaganda would probably not fall within the neutrality statutes.	370
381	Mr. de la Barra to Mr. Knox	...do.....	Overflow of the Colorado River. States bases for an agreement for an exchange of notes for the immediate authorization of the erection of protective works on the Colorado River.	546
	Mr. Wickersham to Mr. Knox (telegram).	Dec. 2	Political affairs in Mexico. The evidence at hand is deemed insufficient to cause the arrest of Madero.	371
	Mr. Knox to Mr. de la Barra	...do.....	Same subject. Asks for further evidence against Madero.	371
	Mr. Knox to Mr. Wickersham.	...do.....	Same subject The Mexican Embassy has been asked to furnish further evidence against Madero.	371
	Mr. Knox to Mr. Wilson (telegram).	Dec. 3	Overflow of the Colorado River. A satisfactory plan has been presented to the department. A clause is desired for the free entry of subsistence, materials, etc.	547
354	Mr. Knox to Mr. de la Barra	...do.....	Same subject. The Department of the Interior desires that paragraph 6 of the agreement, relating to free entry of supplies, be amended to include subsistence, materials, etc.	548
	Mr. Knox to Mr. Hitchcock.	Dec. 6	Political affairs in Mexico. Incloses copy of a letter from C. Q. Davis, asking that the editors of the American Magazine be prosecuted for the publication of an article entitled "Barbarous Mexico."	372
401	Mr. de la Barra to Mr. Knox	Dec. 7	Overflow of the Colorado River. The Mexican Government will ask authority of the Congress for the free entry of the articles mentioned, except materials for subsistence and supplies.	548
361	Mr. Knox to Mr. de la Barra	Dec. 9	Same subject. States reasons why free entry should be granted for materials for subsistence and supplies.	549
360	Same to same.....	Dec. 10	Political affairs. His No. 362 has been brought to the attention of the competent authorities.	373
422	Mr. de la Barra to Mr. Knox	...do.....	Same subject. The embassy will submit to the department all the evidence in its possession against Madero.	374
167	Mr. Knox to Mr. Wilson...	Dec. 14	Same subject. It is a general rule of international law that even in a state of war the mere trade in arms, ammunition, and other articles of contraband is considered legal and subject to no other penalty than loss of the goods if captured. Quotes the laws of the United States and cities authorities on the subject.	374
	Mr. Hitchcock to Mr. Knox.	Dec. 15	Political affairs in Mexico. There is no law under which action can be taken against the publishers of the article entitled "Barbarous Mexico."	376
455	Mr. de la Barra to Mr. Knox	Dec. 16	Overflow of the Colorado River. Announces the appointment of Sr. Fernando Beltrán y Puga as inspector of the Colorado River protective works.	550
	Same to same.....	...do.....	Political affairs in Mexico. Incloses copy of "Regeneración" and draws department's attention to an article whose character of anarchistic propaganda is obvious.	377
	Same to same.....	...do.....	Same subject. Asks that American forces be stationed at Presidio, Tex., to arrest fugitive rebels and to prevent other groups from entering Mexico.	377
	Mr. Knox to Mr. Wilson (telegram).	Dec. 17	Overflow of the Colorado River. Instructs to endeavor to make an arrangement with the Mexican Government by which payment of duties may be deferred, also to admit without bond locomotives, supply trains, etc., and to obtain formal documents for the American engineer to enter Mexico.	550
	Mr. Wilson to Mr. Knox (telegram).	Dec. 19	Same subject. President Diaz insists that the exchange of notes must take place before any further action can be taken.	550
367	Mr. Knox to Mr. de la Barra	...do.....	Political affairs in Mexico. His note No. 422 of the 10th instant has been communicated to the Attorney General.	377
	Mr. Oliver to Mr. Knox....	Dec. 20	Same subject. The commanding general of the Department of Texas reports that the force of custom inspectors and State rangers is sufficient to handle the situation at Presidio, Tex.	378
494	Mr. de la Barra to Mr. Knox	Dec. 23	Same subject. Informs the department that armed insurgents are crossing from El Paso to Ciudad Juárez.	378

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1910.		
494	Mr. Wilson to Mr. Bryce...	Dec. 24	Chamizal arbitration. Requests good offices to obtain the consent of Hon. Eugene La Fleur to act as third commissioner in the arbitration.	570
	Mr. Knox to Mr. de la Barra	...do.....	Overflow of the Colorado River. Requests good offices for a temporary arrangement regarding free importation and filing of bond for the Mexican company, the Colorado River Land Co.	551
	Mr. Wilson to Mr. de la Barra.	...do....	Same subject. Accepts proposals for an arrangement for the construction of protective works on the Colorado River.	551
233	Mr. Magill to Mr. Knox....	...do....	Political affairs in Mexico. Reviews anti-American demonstrations on Nov. 10–11, 1910.	379
371	Mr. Knox to Mr. de la Barra	Dec. 29	Same subject. Upon investigation the rumors of the passing of bands of revolutionists into Mexico from the United States have been found to be without foundation.	380
533	Mr. de la Barra to Mr. Knox	Dec. 30	Overflow of the Colorado River. The proposals of the Mexican Government having been accepted that Government will permit the importation of machinery and material.	553
534	Mr. de la Barra to Mr. Knox	...do....	Political affairs in Mexico. Says he is informed that arms and ammunition are being shipped into Mexico from El Paso.	380
535	Same to same.....	...do....	Same subject. Advises that Abraham González, a Mexican rebel, is preparing an expedition at Presidio, Tex.	381
536	Same to same.....	Dec. 31	Same subject. He is informed that there are rebel bands near the Mexican border and that an attack on two or three border towns will be attempted soon.	381
	Mr. Knox to Mr. de la Barra	...do....	Same subject. His memorandum of the 16th inst. has been communicated to Secretary of War and the Attorney General.	381
		1911.		
538	Mr. de la Barra to Mr. Knox	Jan. 2	Same subject. Incloses a newspaper clipping reciting the revolutionary activities of Abraham González and asks that same be investigated.	382
539	Same to same.....	Jan. 3	Same subject. Above named González and two other insurgents are reported to be at El Paso. Urges an investigation of their activities.	382
569	Same to same.....	Jan. 4	Overflow of the Colorado River. The Mexican Government does not consider the maintenance of the Colorado River works a proper subject for a treaty.	553
374	Mr. Knox to Mr. de la Barra	...do....	Political affairs in Mexico. His four recent notes relating to violations of the American neutrality laws have been communicated to the appropriate authorities.	383
	Mr. de la Barra to Mr. Knox	Jan. 5	Overflow of the Colorado River. The specifications prepared by the American engineer for the construction of the Colorado River works differ from the bases as they appear in the notes exchanged by the two Governments.	553
	Mr. Ellsworth to Mr. Knox.	...do....	Political affairs in Mexico. Federal officials of our Government deny that the neutrality laws are being broken on the Mexican border.	384
377	Mr. Knox to Mr. de la Barra	...do....	Same subject. Quotes a letter from the United States attorney for the western district of Texas, stating that no acts constituting violations of the American neutrality laws have been committed.	383
383	Same to same.....	Jan. 6	Same subject. Concerning the movements of Mexican insurgents on the American side of the boundary the commanding general of the Department of Texas reports that the situation is being watched and no action is deemed necessary at present.	384
	Mr. Knox to Mr. de la Barra	...do....	Overflow of the Colorado River. The Department understands that the Ambassador is in communication with the Department of the Interior for the adjustment of the differences in the specifications of the protective works.	554
615	Mr. de la Barra to Mr. Knox	...do....	Same subject. States that the differences in the specifications have been adjusted.	554
620	Same to same.....	Jan. 11	Political affairs in Mexico. Acknowledges with appreciation department's No. 377.	385
	Same to same.....	...do....	Same subject. Advises that Abraham González and other Mexican insurgents are at El Paso, organizing an armed expedition against Mexico. Asks for their arrest.	385
	Same to same.....	...do....	Same subject. Advises that an attempt was made at San Antonio, Tex., to remove arms and ammunition there stored and that the local authorites are holding two Mexican laborers who were loading the wagons. Requests an investigation.	385

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
659	Same to same	Jan. 16	Same subject. Reports the activities of certain Mexican insurgents at El Paso, Tex., and that Mexican troops have fired on from the American side of the boundary. Requests investigation.	386
	Mr. Ellsworth to Mr. Knox	...do...	Same subject. He is informed that Mexican troops were fired upon from the Texas side of the river during a fight between them and rebels.	387
	Same to same	Jan. 17	Same subject. The American collector of customs at Eagle Pass denies that any shots were fired from the American side during the fight on the 11th inst.	387
674	Mr. de la Barra to Mr. Knox	Jan. 18	Same subject. States that the Mexican rebel Ramón Vázquez tried to buy arms for the rebels at Tucson, Ariz.	388
390	Mr. Knox to Mr. de la Barra	Jan. 19	Same subject. Incloses a copy of a letter from the United States attorney for the western district of Texas, stating that there is no foundation for the allegations of neutrality violations.	388
677	Mr. de la Barra to Mr. Knox	...do...	Same subject. Recites the activities of Francisco I. Madero, the Mexican agitator, in the United States, and requests that steps be taken to cause his arrest.	392
15	Mr. Bryce to Mr. Knox	Jan. 23	Chamizal arbitration. Advises that Mr. Le Fleur has consented to act as presiding commissioner in the arbitration.	571
	Mr. Knox to Mr. de la Barra	...do...	Political affairs in Mexico. His note of the 16th instant has been communicated to the Attorney General. Again advises him that under the Constitution of the United States free speech is assured and the mere word, written or spoken, does not constitute an offense.	393
694	Mr. de la Barra to Mr. Knox	...do...	Same subject. Acknowledges Department's No 390 and states that the Government of Mexico has no doubt that the American authorities will make all necessary investigations to prove the frequent violations of the American neutrality laws.	393
698	Same to same	...do...	Same subject. Advises that a band of rebels unloaded arms and ammunition from a wagon near Guadalupe and took them into Mexico.	394
699	Same to same	...do...	Same subject. Advises that a band of 20 rebels crossed into American territory for the purpose of buying arms and ammunition.	394
	Gen. McCain to Gen. Hoyt (telegram).	Jan 24	Same subject. Orders for the distribution of American troops on the Mexican border. No crossing of American troops into Mexico will be permitted.	395
340	Mr Wilson to Mr Knox	...do...	Same subject. During an interview with President Diaz he intimated that a stricter patrol should be enforced on the Mexican border.	395
395	Mr. Knox to Mr. de la Barra	...do...	Same subject. His note of the 3d instant, relating to the seditious acts of Abraham González, has been communicated to the Attorney General.	396
	Same to same	...do...	Same subject. His note of the 11th instant has been communicated to the Attorney General. States for the consideration of the embassy that the mere commercial traffic in arms and ammunition is not forbidden either by international law or by the neutrality laws of the United States.	396
398	Same to same	...do...	Same subject. Acknowledges his note relating to the activities of Francisco I. Madero and states that the mere fact that a man is engaged in revolutionary undertakings in another country does not render his presence in the United States illegal and that the sale of arms does not constitute unneutral conduct. Cites authorities.	397
399	Same to same	...do...	Same subject. His note relating to the requested arrest of Francisco I. Madero has been copied to the Attorney General Again reminds him that the mere carrying on of a revolutionary propaganda does not constitute an offense against international law or the Federal statutes.	397
	Same to same	Jan. 25	Same subject. His memorandum of the 11th instant, relating to the revolutionary activities of Abraham González and others, has been communicated to the competent authorities.	398
91	Mr. Knox to Mr. Ellsworth	...do...	Same subject. Instructions for his conduct in his efforts to secure proper observance of the neutrality laws.	398
		...do...	Chamizal arbitration. Convention between the United States and Mexico.	565
		...do...	Same subject. Supplementary protocol to the above convention.	569

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
402	Mr. Knox to Mr. de la Barra	Jan. 26	Overflow of the Colorado River. Explains the use of certain words in the contract of the Colorado River Land Co. to which objections were made by the Mexican Government. States the attitude of the Government of the United States.	555
404	Mr Wilson to Mr. Pereyra..	Jan. 28	Political affairs. Refers to the note of 23d instant, relating to the introduction of arms into Mexico and calls attention to department's note of 25th instant, which treated of this subject.	400
407	Mr. Knox to Mr. Pereyra..	Feb. 2	Same subject. Refers to his note of the 3d ultimo relating to the seditious acts of Abraham Gonzáles and others and informs him that the competent United States attorney has been instructed to investigate the matter.	400
	Same to same.....	Feb. 3	Same subject. The embassy's memorandum of the 16th ultimo has been transmitted to the United States attorney for the western district of Texas.	401
409	Mr. Knox to Mr. Pereyra..	Feb. 4	Same subject. The United States attorney for the western district of Texas has been instructed to take appropriate action as requested in the ambassador's note of the 19th instant.	401
	Mr. de la Barra to Mr. Knox	...do....	Same subject. Advises that it is planned at Eagle Pass, Tex., to collect funds, buy arms for the revolutionists, and to gather men to stir up disorder in Mexico.	401
	Mr. Knox to Mr. de la Barra	...do....	Same subject. Copies of the above memorandum were immediately sent to Secretary of War and the Attorney General.	402
	Mr. de la Barra to Mr. Knox	...do....	Same subject. The embassy learns that several cases containing artillery are to be shipped to the rebels in Mexico. Requests that appropriate instructions be given to prevent the delivery of this war material.	402
	Mr. Knox to Mr. de la Barra.	Feb. 6	Same subject. Copies of the above memorandum have been sent to the Secretary of War and the Attorney General.	402
	Same to same.....	...do....	Same subject. A prompt investigation will be made of the matter reported in embassy's memorandum of the 11th ultimo.	403
	Mr. de la Barra to Mr. Knox.	...do....	Same subject. It is rumored that there is a general movement on foot to cross men and arms and ammunition into Mexico from several towns in Texas.	403
	Mr. Knox to Mr. de la Barra.	Feb. 7	Same subject. Copies of the above memorandum have been sent to the Secretary of War and the Attorney General.	403
	Mr. Knox to Mr. Wilson (telegram).	...do	Same subject. Informs him that Dr. Bush, while working under the Red Cross flag, was fired upon by Mexican soldiers. Instructs to request action to prevent a recurrence.	404
415	Mr. Wilson to Mr. Pereyra.	Feb. 11	Same subject. Again reminds him that commercial traffic in arms and ammunition is not forbidden by international law or Federal statutes.	404
	Same to same.....	Feb. 12	Overflow of the Colorado River. The department is informed that the insurgents intend to raid the camps of the Colorado River works. Urgently requests to be informed whether the Mexican Government is able to cope with the situation or whether the military cooperation of the United States is needed.	556
	Gov. Johnson to President Taft.	Feb. 13	Political affairs. Transmits a telegram advising that the neutrality laws are openly violated at Calexico.	405
	Mr. Wilson to Gov. Johnson.	Feb. 14	Same subject. The above complaint will be promptly investigated by the proper Federal authorities.	405
	Mr. de la Barra to Mr. Knox.	...do....	Overflow of the Colorado River. The Mexican Government has sent a military command to the works to insure its safety. It appreciates the offer of cooperation but does not deem it necessary to avail itself of it.	556
	Mr. Knox to Mr. de la Barra.	...do....	Same subject. The Government of the United States has no objection to the proposed purchase of arms and ammunition by Col. Vega and his command, and if it is desired to transport these men over American territory this Government will grant facilities for such transportation.	557
418	Mr. Wilson to Mr Pereyra.	...do....	Political affairs. His note No. 699 of the 23d ultimo has been communicated to the Department of Justice.	406

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Mr. Knox to Mr. Pereyra..	Feb. 15	Same subject. Incloses a letter from the Attorney General stating no law has been found which would prohibit the sending of a publication like "Las Bombas y el Despotismo" through the American mail.	406
	Mr. Pereyra to Mr. Knox..	...do....	Same subject. Calls attention to the fact that certain Mexican employees, forced by the rebels to cross the boundary, were disarmed by the military forces of the United States.	407
	Same to same.....	Feb. 16	Same subject. Advises that according to the press of San Francisco, Cal., one Richard Ferris is organizing a filibustering expedition against Mexico. Requests that measures be taken to frustrate the attempt.	407
	Mr. Pereyra to Mr. Knox..	...do....	Overflow of the Colorado River. States that Col. Vega and his command will not have to go out of Mexican territory to reach his destination.	558
	Mr. Knox to Mr. Pereyra..	Feb. 17	Same subject. On account of the complete defeat of Col. Vega and his command by the rebels the American Ambassador at Mexico City has been instructed to reiterate the suggestion of American military cooperation, or to request permission for the use of an ununiformed constabulary force for the protection of the works.	558
	Mr. Wilson to Mr. Knox (telegram).	...do....	Same subject. The use of ununiformed guards has been authorized; 300 troops will also be sent to guard our interests.	559
344	Mr. Wilson to Mr. Knox...	...do....	Political affairs in Mexico. He has received assurances that there will be no repetition of the incident of firing on the Red Cross flag by Mexican troops.	408
	Mr. Wilson to Gov. Johnson.	Feb. 18	Same subject. Transmits a telegram from the commanding general at Calexico stating that there are no violations of the neutrality laws in that section.	405
	Mr. Knox to Mr. Pereyra..	...do....	Same subject. His memorandum of the 15th instant, relating to the disarming of Mexican employees, has been communicated to the Secretary of War.	408
	Same to same.....	...do....	Same subject. His memorandum of the 16th instant, relating to the filibustering expedition of Richard Ferris, has been communicated to the Secretary of War and the Attorney General.	408
	Mr. Wilson to Mr. Wilson (telegram).	...do....	Same subject. Quotes telegraphic communications with the Secretary of Commerce and Labor, by which permission is granted to bring wounded Mexicans into the United States for treatment. The American Red Cross has offered its services to care for sick and wounded in Mexico.	409
	Mr. Knox to Mr. Wilson (telegram).	Feb. 22	Overflow of the Colorado River. The Secretary of the Interior has undertaken to protect the Colorado River works by ununiformed guards. Suggest to the Mexican Government a similar arrangement for the canal above the levee works.	559
	Mr. de la Barra to Mr. Knox	Feb. 23	Political affairs in Mexico. Incloses clipping stating that Simon Berthold is recruiting men for service against Mexico. Asks that judicial action be instituted against him.	409
	Gov. Colquitt to President Taft.	...do.....	Same subject. Orders have been given to the State Rangers to be on the lookout for Francisco I. Madero and other Mexican insurgents with a view to their arrest.	410
	Mr. Knox to Mr. Edwards (telegram).	Feb. 24	Imprisonment of Edward M. Blatt and Lawrence F. Converse in Mexico. Instructs to investigate and report.	605
	Mr. Dearing to Mr. Knox (telegram).	Feb. 25	Overflow of the Colorado River. The Mexican Government agrees to the proposals contained in department's telegram of the 22d instant.	560
	Mr. de la Barra to Mr. Knox	Feb. 28	Political affairs in Mexico. Advises that E. D. Maurer is secretly shipping arms and ammunition to the rebels in Mexico. Requests appropriate action.	410
	Same to same.....	Mar. 1	Same subject. Advises that certain papers taken from the rebel Martin Casillas and forwarded to the district attorney at El Paso have miscarried.	411
	Mr. Knox to Mr. de la Barra	Mar. 2	Same subject. His memorandum of the 23d ultimo, relating to the activities of Simon Berthold, has been communicated to the Attorney General.	411
	Mr. Knox to Mr. Dearing (telegram).	...do.....	Overflow of the Colorado River. It has been found impossible to recruit a civilian guard for the protection of the works and the President is of the opinion that the emergency has arrived making indispensable the sending of American troops to guard the works.	560

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
986	Mr. de la Barra to Mr. Knox	Mar. 3	Same subject. The Mexican Constitution forbids the passage of foreign troops into national territory without the consent of the Senate, which is not in session.	561
993	Same to same	...do.....	Political affairs in Mexico. The Mexican consul at San Diego, Cal., reports that a number of rifles out of a store of arms held there by the Government are likely to fall into the hands of insurgents.	412
	Same to same	...do.....	Same subject. To show the character of the men who constitute the rebels in Mexico incloses a letter written by P. Orozco.	412
	Mr. Edwards to Mr. Knox (telegram).	...do.....	Imprisonment of Blatt and Converse in Mexico. Reports that the boys were kidnapped on American soil and taken into Mexico. Has lodged protest.	606
	Mr. Dearing to Mr. Knox (telegram).	Mar. 4	Overflow of the Colorado River. A force of 500 men will be sent for the protection of the Colorado River works and it is suggested that considerable time would be saved if the men were allowed to proceed via San Diego.	561
989	Mr. de la Barra to Mr. Knox	...do.....	Same subject. Advises that a sufficient force has been sent for the protection of the works.	562
1056	Same to same	Mar. 6	Same subject. The Mexican Government requests that the force sent for the protection of the Colorado River works be permitted to proceed via San Diego.	562
1018	Same to same	...do.....	Political affairs in Mexico. Calls attention to difficult situation created for Mexico by certain corrupt elements of the people of California who are invading the territory of Lower California, and requests that vigorous measures be taken against these movements.	413
	President Taft to Gov. Colquitt.	...do.....	Same subject. Refers to his letter of the 23d ultimo, concerning the measures taken for the apprehension of Francisco I. Madero and states that the crossing of a force of State Rangers into Mexico for that purpose would not be advisable.	414
	Mr. Knox to Mr. de la Barra	...do.....	Same subject. His memorandum of the 1st instant, relating to the miscarriage of certain papers, has been communicated to the Attorney General.	415
	Mr. Wilson to Mr. Wilson (telegram).	Mar. 7	Same subject. Instructs to inform President Diaz that hope is expressed that no misapprehension will result from sensational newspaper conjectures as to military maneuvers about to take place in Texas.	415
	Mr. Wilson to Mr. de la Barra.	...do.....	Overflow of the Colorado River. This Government would prefer that the force sent for the protection of the Colorado River works should proceed over Mexican territory.	563
	Mr. Wickersham to Mr. Knox.	Mar. 8	Political affairs in Mexico. Refers to note from the Mexican embassy of the 28th ultimo, relating to shipments of arms for delivery to Mexican rebels and states that the mere shipment of arms is not a violation of the neutrality laws.	415
	Mr. Dearing to Mr. Knox (telegram).	...do.....	Same subject. Military maneuvers in Texas. No misgivings were entertained by the Mexican Government.	416
372	Same to same	...do.....	Same subject. Incloses a note from the foreign office stating that orders have been given to Mexican troops to respect the Red Cross flag.	416
373	Same to same	...do.....	Same subject. Incloses correspondence with the foreign office in which the liability for expenses incurred in the treatment of wounded Mexican soldiers who may be brought into the United States is admitted but not for others; it is also implied that Mexican soldiers should not be detained.	417
	Mr. Knox to Mr. de la Barra	...do.....	Same subject. His memorandum of the 28th ultimo, relating to the shipment of arms and ammunition for delivery to Mexican insurgents, has been communicated to the Attorney General.	418
430	Mr. Wilson to Mr. de la Barra.	Mar. 9	Same subject. His note of the 3d instant, relating to the sale of arms by the United States has been communicated to the War Department and the Department of Justice.	419
	Same to same	...do.....	Same subject. Advises him that Mexican troops during a battle with insurgents at Mulato deliberately fired upon American troops patrolling the American side of the river. This Government feels that it must expect that the Government of Mexico will at once disavow this action and will take all necessary steps to prevent a recurrence.	419
376	Mr. Dearing to Mr. Knox	...do.....	Same subject. Incloses correspondence with the foreign office regarding the Army maneuvers in Texas. Opinion prevails here that these maneuvers have some other end in view than practice.	420

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
1036	Mr. de la Barra to Mr. Knox.	Mar. 9	Same subject. Department's note of this date relating to the firing upon American troops by Mexican troops has been communicated to his Government by telegraph.	421
	Mr. Knox to Mr. de la Barra.	Mar. 11	Same subject. His memorandum of the 3d instant, transmitting a letter from the rebel P. Orozco, has been sent to the Department of Justice.	421
	Mr. de la Barra to Mr. Knox (telegram).	Mar. 12	Same subject. To tranquilize public opinion and to allay general alarm requests that the object of the mobilization of American war vessels and their dispatch to Mexican ports be made known.	422
	Mr. Adee to Mr. de la Barra (telegram).	Mar. 13	Same subject. To avoid further misgivings on account of the calling of American war vessels at Mexican ports they have been directed to call for coal only and leave promptly.	422
433	Mr. Wilson to Mr. de la Barra.	Mar. 14	Imprisonment of Edward M. Blatt and Lawrence F. Converse in Mexico. Gives the known facts in the case and states that a thorough investigation is being made, and if the report is confirmed that they were kidnapped on American territory this Government will demand their immediate return.	606
1052	Mr. de la Barra to Mr. Knox.	...do....	Political affairs in Mexico. The Mexican Government deplores the firing on American troops by Mexican troops and a thorough investigation has been ordered.	423
1053	Same to same.....	...do....	Same subject. President Taft's explanations concerning the mobilization of American troops have been received with pleasure and his message will be published in Mexican newspapers.	423
1056	Same to same.....	Mar. 15	Same subject. Department's telegram of the 13th instant, concerning the calling of American war vessels at Mexican ports has been forwarded to his Government.	423
	Mr. Wilson to Mr. Dearing (telegram).	...do....	Same subject. Quotes a telegram from Douglas, Ariz., stating that Mexican soldiers shot a number of unarmed Mexicans, onlookers at a skirmish at Aguaprieta. Instructs to inquire into the truth of the report.	424
	Mr. Wilson to Mr. de la Barra.	Mar. 16	Same subject and tenor.	424
	Mr. Wilson to Mr. Dearing (telegram).	...do....	Same subject. It is reported that the Mexican Government is considering the suspension of certain constitutional guaranties and instructs to say to that Government that the Government of the United States takes it for granted that American citizens who may be taken prisoners will be dealt with according to the principles of justice and humanity and of international law.	425
1057	Mr. de la Barra to Mr. Knox.	...do....	Same subject. It is rumored that the insurgents intend to disguise in the uniform of Mexican soldiers and fire on American soldiers on patrol at the border.	425
1058	Same to same.....	...do....	Same subject. He is officially informed that several groups on the American bank of the Rio Grande fired upon a Mexican force operating near Ciudad Juarez on February 7 last.	426
435	Mr. Wilson to Mr. de la Barra.	Mar. 17	Imprisonment of Blatt and Converse in Mexico. Calls attention to a telegram stating that Blatt is ill and threatened with pneumonia and expresses the hope that all necessary care will be taken to preserve the health of these Americans.	607
1075	Mr. de la Barra to Mr. Knox.	...do....	Same subject. He has received advice that his Government has proof that these men were captured on Mexican territory, but further investigation will be made.	607
	Mr. Dearing to Mr. Knox (telegram).	...do....	Political affairs in Mexico. Reports that the Mexican Congress promulgated suspension of constitutional guaranties.	427
	Mr. Knox to Mr. de la Barra.	...do....	Same subject. The Department of Justice informs this Department that certain papers, reported by the Embassy as having miscarried, are in the hands of the United States attorney at El Paso.	427
	Mr. de la Barra to Mr. Wickersham.	...do....	Same subject. Incloses a copy of a letter written by Abraham González showing that González violated the neutrality laws.	427
	Mr. Knox to Mr. de la Barra.	Mar. 18	Same subject. Transmits purport of letter from the Department of Justice of March 8, 1911.	428
	Mr. de la Barra to Mr. Knox.	...do....	Same subject. Advises that the I. C. Hirsch Iron Steel & Rail Co. has a large stock of Springfield rifles and ammunition for sale.	428

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
1075	Mr. de la Barra to Mr. Wilson.	Mar. 20	Same subject. Requests punishment of three men, members of a band which crossed into Mexico and attacked several places in Sonora, and who are being tried in the court at Nogales, Ariz	430
	Mr. de la Barra to Mr. Knox.	...do....	Same subject. Department's note of the 16th instant, relating to the report that Mexican soldiers had shot unarmed prisoners, has been telegraphed to his Government.	428
	Same to same.....	...do.....	Same subject. Reports that the local authorities at Del Rio have stopped a shipment of arms and ammunition and requests that measures be taken to prevent this shipment from reaching the rebels.	430
	Same to same.....	...do.....	Same subject. Requests permission for a Mexican commander to bring provisions and forage to Ojinaga from the United States.	430
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Same subject. The situation is growing worse, and the Mexican Government is now alive to its responsibility in protecting lives and property of foreigners.	430
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Protection of Chinese subjects by American diplomatic and consular officers. Asks whether the American consul at Guaymas may act.	615
	Same to same.....	Mar. 21	Political affairs in Mexico. In an interview with him President Diaz expressed great satisfaction with the attitude of the American Government.	431
	Mr. Wilson to Mr. de la Barra.	...do.....	Same subject. The Department awaits the result of the investigation of the firing upon American troops from the Mexican side of the Rio Grande.	431
	Mr. Wilson to Mr. Knox (telegram).	Mar. 22	Same subject. Mr. Limantour admitted the gravity and extent of the revolution, but asserted that it would fail if the Government exercised proper energy.	431
	Same to same (telegram)..	Mar. 23	Same subject. The revolutionary situation is worse than ever. It becomes more apparent that if the situation is to be saved it will be by the military precautions of President Taft.	432
439	Mr. Wilson to Mr. de la Barra.	...do.....	Same subject. His note of the 16th instant, relating to the disguising of the rebels by wearing Mexican uniforms has been copied to the War Department and the Department of Justice.	432
440	Same to same.....	...do.....	Same subject. His note of the 16th instant, relating to the firing upon Mexican troops by groups on the American side of the Rio Grande has been communicated to the War Department and the Department of Justice.	432
	Same to same.....	...do.....	Same subject. There is no prohibition against the purchase of food and forage in the United States for the Mexican army.	433
	Same to same.....	Mar. 24	Same subject. His note of the 20th instant has been sent to the departments of war and justice. Calls attention to previous notes on the commercial trading in arms and ammunition.	433
264	Mr. Wilson to Mr. Wilson..	...do.....	Same subject. His No. 372 of the 8th instant has been communicated to Representative W. R. Smith of Texas and the American National Red Cross.	433
	Mr. MacVeagh to Mr. Knox.	...do.....	Same subject. There is no prohibition against ordinary exports across the Rio Grande provided they are made through the established customs ports.	434
	Mr. Wilson to Mr. de la Barra.	...do.....	Same subject. Imports and exports to and from the United States can only be effected at established ports of entry.	434
405	Mr. Wilson to Mr. Knox...	...do.....	Imprisonment of Blatt and Converse in Mexico. Incloses a communication from the foreign office stating that these men are awaiting the action of the district court of Chihuahua.	608
	Mr. Wilson to Mr. Wilson..	...do.....	Protection of Chinese in Mexico. The American consul at Guaymas may, in so far as the local authorities permit it, extend informal good offices in behalf of Chinese subjects.	615
	Mr. Knox to Mr. de la Barra.	Mar. 25	Political affairs in Mexico. The department feels that it will not be possible to base any criminal prosecution upon the information contained in the embassy's memorandum of the 17th instant.	434
1138	Mr. de la Barra to Mr. Knox.	...do.....	Same subject. Advises that his Government intends to pass some supplies to Gen. Luque by way of Presidio, Tex.	435
	Mr. Garrett to Mr. Knox (telegram).	Mar. 26	Same subject. Asks what steps must be taken in case consulate is threatened and no protection is given by Mexican troops.	435

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
1141	Mr. de la Barra to Mr. Knox.	Mar. 26	Same subject. Informs that several bands of armed filibusters have invaded the State of Sonora from the northern boundary.	436
	Mr. Pereyra to Mr. Knox..	Mar. 27	Same subject. Requests that supplies for Gen. Luque be allowed to go over the new ford between Presidio, Tex., and Ojinaga, Chihuahua.	436
3	Mr. Vásquez y Gómez to Mr. Knox.	...do.....	Same subject. Incloses notes from Francisco I. Madero, Chief of the Mexican insurrection, giving the causes of the insurrection and stating his aims.	437
444	Mr. Knox to Mr. Pereyra..	...do.....	Same subject. Informs him that the Government of the United States has no store of arms at San Diego and no sale has been made to dealers for two years past.	438
	Mr. Knox to Mr. Garrett (telegram).	Mar. 28	Same subject. If danger threatens and if no protection will be afforded by the Mexican authorities he and other Americans should cross to the American side of the river.	438
433	Mr. Wilson to Mr. Knox...	...do.....	Same subject. In the matter of suspension of guaranties in Mexico incloses a note from the foreign office stating precisely the course the Mexican Government proposes to follow in dealing with the revolution.	438
446	Mr. Knox to Mr. Pereyra..	...do.....	Same subject. Calls attention to department's memorandum of the 23d instant relating to the exportation of provisions and fodder for Mexican troops.	440
	Same to same.....	Mar. 29	Same subject. Repeats the statement, already frequently made, that mere commercial trading in arms and ammunition is not a violation of either international law or the United States neutrality laws; his note of the 18th instant on this subject has been copied to the Department of Justice.	440
	Mr. Wilson to Mr. Knox...	...do.....	Same subject. The anti-American sentiment seems to have subsided since the issuance of the President's order relative to military disposition on the border and public opinion inclines to the belief that we only want to discharge our international obligations and protect our nationals.	441
467	Mr. Knox to Mr. Pereyra...	...do.....	Same subject. In reply to embassy's No. 1018 of the 6th instant, concerning the activities of revolutionary sympathizers on the American side of the border states that it is hoped that the measures taken on the same date will have a beneficial result.	441
	Mr. Wilson to Mr. Knox (telegram).	Mar. 30	Same subject. The Italian minister at Mexico City has asked what will be attitude of the American Government in regard to the suspension of constitutional guaranties in Mexico.	442
	Mr. Knox to Mr. Pereyra...	Mar. 31	Same subject. The Italian ambassador in this city, having requested an expression of the attitude of this Government in regard to the suspension of constitutional guaranties in Mexico the department has furnished him a copy of its instruction to the American chargé d'affaires, dated the 16th instant.	442
	Same to same.....	...do.....	Same subject. Embassy's memorandum of the 20th instant relating to the hearing involving certain persons for violation of the neutrality laws has been forwarded to the United States attorney for Arizona.	443
	Mr. Knox to Mr. Wilson (telegram).	Apr. 1	Same subject. Text of Mr. Dearing's note to the minister for foreign affairs concerning the suspension of constitutional guaranties in Mexico has been sent to the British, French, German, and Italian ambassadors.	443
	.....	...do.....	Overflow of the Colorado River. Message of President Diaz relating to.	564
719	Mr. Wilson to Mr. Knox...	...do.....	Imprisonment of Blatt and Converse in Mexico. Incloses a copy of a report of the Mexican consul at El Paso on the condition of the prisoners.	609
471	Mr. Knox to Mr. Pereyra...	Apr. 3	Political affairs in Mexico. The Secretary of the Treasury has issued instructions to permit ordinary supplies to cross into Mexico at a ford outside the port of Presidio, Tex.	443
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Same subject. Minister for Foreign Affairs de la Barra expressed satisfaction with the attitude of the American embassy. He will soon lay four measures of reform before the Congress.	444
	Mr. Knox to Mr. Pereyra...	Apr. 5	Same subject. Information obtained by the Department of Justice shows that the report of a filibustering expedition by one Richard Ferris is without foundation.	444
434	Mr. Wilson to Mr. Knox...	...do.....	Same subject. Incloses message of President Diaz to Congress.	444

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page
		1911.		
1202	Mr. Pereyra to Mr. Knox...	Apr. 6	Same subject. Advises that there are in Arizona arms and ammunition ready to be exported without express consignment.	447
473	Mr. Knox to Mr. Pereyra...	...do.....	Same subject. A copy of embassy's note of the 16th ultimo relating to the disguise of rebels as Mexican soldiers will be furnished to the officers of the Department of Justice in Texas.	447
475	Same to same.....	...do.....	Same subject. The report that persons on the American side of the Rio Grande fired upon Mexican soldiers will be investigated by the Department of Justice. Asks for further data.	448
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Same subject. Complaint is made that the rebels are receiving large supplies from across Texas border. If this source were rendered unavailable military operations would soon come to an end.	448
437	Same to same.....	...do.....	Same subject. Orders have been issued by the Mexican authorities to afford the necessary protection to the American consul and consulate at Nuevo Laredo.	449
478	Mr. Knox to Mr. Pereyra...	Apr. 7	Imprisonment of Blatt and Converse in Mexico. Requests early advice of the result of the investigation.	609
	Same to same.....	...do.....	Political affairs in Mexico. The Treasury Department has not prohibited the exportation of ordinary supplies across the Rio Grande.	449
	Same to same.....	...do.....	Same subject. The stopping of a shipment of arms and ammunition at Del Rio to Mexican insurgents will be investigated by the Department of Justice.	449
1210	Mr. Pereyra to Mr. Knox...	...do.....	Same subject. Requests that orders be issued to prevent armed groups of Americans or Mexicans from crossing into the vicinity of Laredo from Texas.	449
447	Mr. Knox to Mr. Pereyra...	...do.....	Same subject. Embassy's note of the 26th ultimo relating to the invasion of the State of Sonora by armed bands from its northern boundary has been communicated to the Departments of War and Justice.	450
	Same to same.....	Apr. 8	Same subject. His memorandum of the 6th instant, relating to the export of arms and ammunition without express consignment, has been communicated to the Departments of War and Justice.	450
	Mr. Pereyra to Mr. Knox..	...do.....	Same subject. Requests protection for a Mexican courier carrying money for Mexican troops over the road from María to Presidio, Tex.	450
1218	Same to same.....	...do.....	Same subject. Requests that suitable instructions be given to the competent authorities not to hinder the free transit of ammunition purchased by agents of the Mexican Government in the United States.	451
1219	Same to same.....	Apr. 9	Same subject. Calls attention to the necessity of establishing stricter vigilance at El Paso to prevent the constant passing of men and war material into Mexico.	451
	Same to same.....	...do.....	Same subject. Advises that four volleys were fired upon Mexican troops by individuals from behind breastworks on American territory.	452
	Mr. Wilson to Mr. Knox (telegram).	Apr. 10	Same subject. Reports that Vice President Corral has been granted leave of absence and will soon depart for Europe. Governors and their subordinates are being replaced.	452
479	Mr. Knox to Mr. Pereyra..	...do.....	Same subject. Advises him that American soldiers patrolling the Rio Grande above Presidio were fired upon by Mexican troops on the 22 dultimo. Emphasizes the great danger which lies in these repetitions of this offense and urges that the Mexican Government immediately take all requisite steps to prevent such acts.	534
	Mr. Knox to Mr. Wilson (telegram).	...do.....	Imprisonment of Converse and Blatt in Mexico. Unless the situation in this case changes Congress may take this matter up and an agitation will be started by newspapers, and this Government is of the opinion that the question of violation of sovereignty should be held in abeyance, and that the boys should be released at once.	609
480	Mr. Knox to Mr. Pereyra...	Apr. 11	Political affairs in Mexico. His note No. 1218 of the 8th instant has been referred to the Departments of War, Treasury and Justice.	453
	Same to same.....	Apr. 12	Same subject. Concerning the safety of a Mexican messenger carrying funds for the army it seems that he is engaged in the military service of Mexico and the United States Government can not participate in the transaction.	454

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
456	Mr. Wilson to Mr. Knox...	Apr. 12	Same subject. Specific orders have been given for the protection of the American consulate at Nuevo Laredo.	454
	Mr. Lespinasse to Mr. Knox (telegram).	Apr. 13	Same subject. Reports that several firms and authorities have asked him to receive their funds. Asks instruction.	455
481	Mr. Wilson to Mr. Pereyra.	...do.....	Same subject. His note No. 1210 of the 7th instant has been communicated to the Departments of War and Justice.	455
	Mr. Knox to Mr. Pereyra...	...do.....	Same subject. Incloses a letter from the Department of Justice stating that an investigation will be made about an order received by the I. C. Hirsch Iron, Steel & Rail Co. for the purchase of arms and ammunition.	455
	Mr. Wilson to Mr. Wilson (telegram).	Apr. 14	Same subject. Informs him that during the fight at Agua Prieta yesterday thousands of bullets struck houses in Douglas, Ariz., killing 2 citizens and wounding 11. This is the third time that Mexican troops have fired into American territory, and should such incidents recur the President would be compelled to take action which he desires to avoid.	456
	Mr. Knox to Mr. Pereyra..	...do.....	Same subject. Embassy's memorandum of the 8th and departments' reply of the 12th instant, concerning the safety of a Mexican messenger have been sent to the Governor of Texas.	456
	Same to same.....	...do.....	Same subject. His note of the 9th instant, about the firing upon Mexican troops by individuals on American territory has been communicated to the Departments of War and Justice.	457
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Imprisonment of Blatt and Converse in Mexico. The Mexican Government submits a proposal for a mutual agreement in regard to the release of these prisoners.	611
	Mr. Wickersham to Mr. Knox.	Apr. 15.	Political affairs in Mexico. Incloses telegrams received from Bisbee, Ariz., stating that the rebels are in possession of the customs house in Agua Prieta.	457
1249	Mr. Pereyra to Mr. Knox...	...do.....	Same subject. An investigation has been ordered by President Diaz into the firing upon American troops as reported in department's No. 479 of the 10th instant.	458
472	Mr. Wilson to Mr. Knox...	Apr. 17	Same subject. Incloses his note to the foreign office advising it of the firing into American territory and the killing and wounding of American citizens at Douglas, Ariz.	458
	Gov. Sloan to President Taft (telegram).	...do.....	Same subject. As a result of to-day's fighting at Agua Prieta five Americans were wounded on American territory. The situation calls for radical measures to protect our people.	459
	President Taft to Mr. Knox.	...do.....	Same subject. At the reception of several foreign ministers the President took occasion to say that he had no thought of intervention in Mexico unless there should be a state of anarchy.	459
	Mr. Knox to Mr. Wilson....	...do.....	Permission for foreigners arrested in Mexico to be visited by their diplomatic and consular officers. Incloses copy of an instruction to the American minister at Guatemala City on a similar subject.	620
	Mr. Knox to Mr. Lespinasse (telegram).	Apr. 18	Political affairs in Mexico. Conditions under which he may accept deposits of funds and property from Americans. He should decline to receive such from Mexicans.	460
	President Taft to Gov. Sloan (telegram).	...do.....	Same subject. Pending urgent representations to the Mexican Government asks him and the local authorities at Douglas, Ariz., to direct the people to leave the danger zone in case firing is resumed.	460
	Mr. Wilson to Mr. Knox (telegram).	...do....	Same subject. Incloses the reply of the minister for foreign affairs to his note of the 15th instant in regard to Agua Prieta.	
	Mr. Knox to Mr. Pereyra..	Apr. 19	Same subject. His note of the 9th instant, relating to the passage of men and arms and ammunition from El Paso to Guadalupe, has been referred to the Departments of War and Justice. Reiterates that the mere commercial traffic in arms and the passing of men into Mexico, either singly or in unarmed, unorganized groups does not constitute a violation of neutrality.	461
479	Mr. Wilson to Mr. Knox...	...do....	Same subject. Incloses a copy of the reply of Minister de la Barra to his note of the 15th instant, in regard to Agua Prieta.	461
	Mr. Knox to Mr. Wilson (telegram).	...do....	Same subject. Quotes article given to the press by the department. Instructs him not to give his note to the press.	464

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
479	Mr. Wilson to Mr. Knox (telegram).	Apr. 19	Same subject. The Mexican Government desires to eliminate a paragraph in its note replying to the embassy's note of the 15th instant.	464
	Same to same (telegram)...	Apr. 21	Same subject. Minister de la Barra expressed himself to the effect that Mexico is anxious to do everything possible to avoid misunderstandings with the United States.	464
2	Mr. Knox to Mr. Zamacona.	...do....	Same subject. The embassy's note of the 26th ultimo, relating to the invasion of the State of Sonora by armed bands was referred to the Department of Justice and the competent United States attorneys have been instructed to take appropriate action.	465
481	Mr. Wilson to Mr. Knox...	...do....	Same subject. Incloses a correction of the Mexican foreign office note replying to his note in regard to Agua Prieta.	465
	Gov. Sloan to President Taft.	...do....	Same subject. Acknowledges with appreciation reply to his telegram of the 17th instant.	466
	Mr. Edwards to Mr. Knox (telegram).	Apr. 22	Imprisonment of Blatt and Converse in Mexico. Reports release of these prisoners, also that of Richard Brown.	611
	Mr. Knox to Mr. Wilson (telegram)	...do....	Same subject. Instructs to convey to President Diaz the gratification of this Government for directing the release of these men.	612
	Mr. Knox to Mr. Zamacona.	...do....	Political affairs in Mexico. Orders will be given for the release of the Mexican troops detained since their crossing the boundary under arms.	466
3	Same to same.....	...do....	Same subject. In further reply embassy's note of the 16th ultimo incloses report from the Department of Justice showing that no shots were fired upon Mexican troops from the American side of the river.	467
6	Mr. Wilson to Mr. Zamacona.	Apr. 25	Same subject. Requests early advice of the result of the investigation about the wounding of an American boy during a battle between Mexican troops and insurgents.	467
489	Mr. Wilson to Mr. Knox...	...do....	Imprisonment of Blatt and Converse in Mexico. Reports how the release of these young men was effected.	612
502	Mr. Wilson to Mr. Knox...	Apr. 27	Political affairs in Mexico. Incloses copies of letters written by him in regard to the possible intervention in Mexico by the United States, stating that so serious a step should be strongly deprecated.	468
509	Same to same.....	Apr. 29	Same subject. Incloses copies of notes addressed to the Mexican foreign office asking for protection of American interests at Parral, Chihuahua.	468
	Mr. Knox to Mr. Zamacona.	...do....	Same subject. The United States marshal for the western district of Texas has been instructed to investigate the report of the firing upon Mexican troops from United States territory on the 7th instant.	469
9	Same to same.....	...do....	Same subject. The Attorney General asks that he be advised in advance of future shipments of ammunition to Mexican troops.	470
10	Same to same.....	...do....	Same subject. The United States attorney and marshal at El Paso have been instructed to investigate the report that men and war material are constantly passing from El Paso to Guadalupe.	470
	Same to same.....	May 1	Same subject. Sufficient evidence to convict one Richard Ferris for alleged violation of the neutrality laws has not been obtained.	470
1316	Mr. Zamacona to Mr. Knox.	May 2	Same subject. Reports that the rebels are showing greater activity between Laredo and Brownsville, and that there is a noticeable movement of arms and ammunition consigned to Laredo and other Mexican points.	470
	Same to same.....	May 3	Same subject. Advises that an attempt will be made by the rebels to pass several wagonloads of arms and ammunition across the border near El Paso, Tex.	471
519	Mr. Wilson to Mr. Knox...	...do....	Same subject. Incloses memorandum sent to the Mexican foreign office asking for protection of Americans at Cuernavaca, Morelos.	471
	Mr. Zamacona to Mr. Knox.	...do....	Same subject. Incloses a copy of a message received from the Mexican foreign office stating that the situation at Cuernavaca is not alarming and that all residents are fully protected.	472

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
518	Mr. Wilson to Mr. Knox...	May 3	Same subject. Incloses a copy of his note to the minister for foreign affairs calling attention to the publication of a telegram sent by Mr. de la Barra to the Mexican representative at Buenos Aires which comments on the presence of American troops on the Mexican border.	472
1325	Mr. Zamacona to Mr. Knox.	...do....	Same subject. Incloses a copy of a report by Gen. Luque concerning the firing toward American territory during the fight between Mexican troops and insurgents at Mulato.	473
328	Mr. Knox to Mr. Wilson...	May 4	Same subject. A careful investigation is being made of the facts and circumstances arising from the recent fighting at Agua Prieta, and he will be further advised.	474
14	Mr. Knox to Mr. Zamacona.	...do....	Same subject. Incloses copy of a report from the Attorney General in regard to the invasion of the State of Sonora by armed bands from the northern boundary.	474
	Mr. Wilson to Mr. Knox (telegram).	...do....	Same subject. Anxiety is increasing among the foreign elements in Mexico City due to fear that general anarchy will prevail if peace negotiations fail.	475
	Mr. Knox to Mr. Zamacona.	May 5	Same subject. His memorandum of the 3d instant relating to the attempt to cross arms and ammunition into Mexico near El Paso, has been communicated to the Departments of War and Justice.	475
	Same to same.....	...do....	Same subject. Incloses copy of a letter from the governor of Texas stating that instructions have been issued to State officers to afford protection to agents of the Mexican Government.	475
	Same to same.....	...do....	Same subject. His note No. 1316 of the 2d instant has been referred to the Departments of War and Justice.	476
1340	Mr. Zamcaona to Mr. Knox.	...do....	Same subject. Reports the result of the investigation of the firing toward American territory during the fight at Mulato.	476
	Mr. Edwards to Mr. Knox (telegram).	May 7	Same subject. Reports that Francisco I. Madero issued a statement declaring all peace negotiations at an end and without result.	477
	Mr. Knox to Mr. Wilson (telegram).	May 8	Same subject. Instructs to consult with the diplomatic corps as to the protection of foreigners in case of a crisis.	477
	Mr. Wilson to Mr. Knox (telegram).	...do....	Same subject. President Diaz issued a manifesto declaring that he was willing to resign when order is reestablished and appealed to the patriotism of the Mexican people.	478
	Mr. Wilson to Mr. Knox (telegram).	...do....	Protection of Chinese in Mexico. The Chinese minister suggests that the provisions of the exclusion act be waived and Chinese refugees be permitted to to cross into American territory.	615
	Mr. Knox to Mr. Wilson (telegram).	May 9	Same subject. Chinese will be permitted temporarily to enter the United States in case of an attack upon Ciudad Juárez.	615
	Mr. Knox to Mr. Edwards (telegram).	...do....	Political affairs in Mexico. Instructs to investigate report that shots have been fired into Juárez from the American side of the boundary.	479
	Mr. Knox to Mr. Zamacona.	...do....	Same subject. Informs him that the Mexican soldiers who were held by the American troops on the border have been ordered released.	478
1352	Mr. Zamacona to Mr. Knox.	...do....	Same subject. Advises that an investigation is being made of the report that shots were fired into Mexican territory from the American side of the boundary.	478
	Mr. Wilson to Mr. Knox (telegram).	May 10	Same subject. At a meeting of the diplomatic corps it was agreed to form a committee representing all foreign colonies to plan a common policy of defense after a conference with the minister for foreign affairs.	479
535	Same to same.....	...do....	Same subject. Incloses correspondence with the Italian minister in regard to a meeting of the diplomatic corps to consider the situation in Mexico City.	479
	Mr. Knox to Mr. Zamacona.	...do....	Same subject. The Department of Justice reports that the allegation that four volleys were fired at Mexican soldiers from the American side of the Rio Grande was erroneous.	480
	Mr. Hanna to Mr. Knox (telegram).	May 11	Same subject. Asks authority to instruct consular officers to deny all reports of an impending intervention in Mexico by the United States.	480
	Mr. Wilson to Mr. Knox (telegram).	...do....	Same subject. The minister for foreign affairs approved the offer of the foreign colonies of their services for preserving law and order.	481

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
542	Same to same	May 11	Same subject. Orders have been issued for the protection of American interests at Parral.	481
	Mr. Edwards to Mr. Knox (telegram).	...do	Same subject. Provisional President Madero and Provisional Governor González have set up a local government for Ciudad Juárez. Reports that he is acting in harmony with the de facto government.	481
1358	Mr. Zamacona to Mr. Knox.	...do	Same subject. Insult to the Mexican consulate at Douglas, Ariz. Reports same and requests that the necessary measures be taken to secure the personnel of the consulate from such annoyances.	481
	Mr. Knox to Mr. Wilson (telegram).	May 12	Same subject. Instructs to deny all foolish stories of intervention by the United States, and to observe strict impartiality.	482
	President Taft to Mr. Knox.	...do	Same subject. Incloses a copy of a letter to the Secretary of the Treasury to guide him in the conduct of the business of the customhouse at El Paso.	482
554	Mr. Wilson to Mr. Knox	...do	Imprisonment of Blatt and Converse in Mexico. Incloses a note from the foreign office stating that it has been decided to expel the prisoners from Mexico.	613
	Mr. Edwards to Mr. Knox (telegram).	May 13	Political affairs in Mexico. Reports that there is no foundation for the report of the firing of shots from the American side during the attack on Juárez.	483
104	Same to same	...do	Same subject. Reports that he granted asylum to a number of refugees during the attack on Juárez, among them some civil officers.	483
	Mr. Knox to Mr. Zamacona.	...do	Same subject. His memorandum of the 9th inst., relating to the firing of to the Mexican side from the American side has been communicated to the Departments of War and Justice for investigation.	484
1411	Mr. Zamacona to Mr. Knox.	...do	Same subject. Expresses hope that the orders issued in regard to the release of Mexican soldiers detained by American troops will be extended to the arms and supplies taken from them.	484
20	Mr. Knox to Mr. Zamacona.	May 16	Same subject. Insult to Mexican consul at Douglas, Ariz. His note No. 1358 of the 11th instant has been referred to the governor of Arizona for investigation and appropriate action.	485
344	Mr. Knox to Mr. Wilson	...do	Same subject. Approves his notes to the foreign office in regard to the protection of American interests at Parral.	485
	Mr. Fletcher to Mr. Knox (telegram).	...do	Same subject. The Chilean minister to Mexico requests the views of the American Government in regard to an offer of mediation in Mexico.	485
	Mr. Wilson to Mr. Knox (telegram).	May 17	Same subject Reports that the Government commissioner was instructed to notify Madero that the President and Vice President will resign, that Mr. de la Barra will be President ad interim, and that there will be an immediate general armistice.	486
	Same to same (telegram)	May 18	Same subject. The armistice between the Government and the revolutionists went into effect last night.	486
	Mr. Knox to Mr. Fletcher (telegram).	...do	Same subject. The department would have no objection to Chile's offer of mediation, but it seems unlikely that such a request will be made, as both parties are now engaged in direct negotiations.	486
	Mr. Wilson to Mr. Knox (telegram).	May 19	Same subject. Mr. de la Barra will retain the foreign portfolio in order to have direct charge of relations with the United States: Has commended the American ambassador for his good services.	486
1414	Mr. Zamacona to Mr. Knox.	...do	Same subject. Advises of the filibustering activities of Ricardo Flores Magón at Los Angeles, and requests appropriate action.	487
	Same to same	...do	Same subject. Advises that one Pryce who has led filibustering expeditions into Lower California and who was arrested by the American military forces has obtained a writ of habeas corpus and that he may be set at liberty. Hopes that department may find means to prevent his release.	487
1418	Same to same	May 20	Same subject. States that 12 Mexican civil employees who were driven across the border by the rebels are detained at San Diego, Cal., and requests their release.	488
	Mr. Knox to Mr. Zamacona.	...do	Same subject. All Mexican soldiers detained at San Diego are to be released.	488

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
351	Mr. Knox to Mr. Wilson...	May 20	Same subject. Approves his action concerning the meeting of the diplomatic corps to consider the situation at Mexico City.	488
	Mr. Knox to Mr. Zamacona.	...do.....	Same subject. It will be impossible to prevent the release of Pryce unless evidence is produced showing that he is guilty of violating the neutrality laws.	489
	Mr. Wilson to Mr. Knox (telegram).	May 22	Same subject. Reports that the treaty of peace was signed last night and that the revolution may be considered as ended.	489
578	Same to same.....	May 23	Same subject. With the approval of the Mexican Government a committee of representative Americans in Mexico City was appointed to take charge of the safety of the American colony. This committee is working in harmony with committees of other nationalities.	489
1434	Mr. Zamacona to Mr. Knox.	May 24	Same subject. Advises that the United States attorney at Los Angeles has received all the evidence required to institute proceedings against Ricardo Flores Magón. Asks that the necessary measures be taken.	490
1435	Mr. Zamacona to Mr. Knox.	...do.....	Overflow of the Colorado River. If the forces charged with the protection of the works are no longer needed the Mexican Government desires to transfer them to other duties.	564
1449	Same to same.....	...do.....	Political affairs in Mexico. The Mexican Government will not consider any claims for damages caused by the activities of the filibusterer Pryce, who has been released, and his adherents.	490
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Protection of Chinese in Mexico. It is reported that 300 Chinese have been murdered at Torreon. The aid of the American consular agent there is asked to make an investigation.	616
1451	Mr. Zamacona to Mr. Knox.	May 25	Political affairs in Mexico. The Mexican war department desires permission for the transit of certain Mexican officers and soldiers now at El Paso to Laredo.	491
32	Mr. Knox to Mr. Zamacona.	...do.....	Same subject. His note of the 2d instant relating to the movement of arms and ammunition to Laredo has been communicated to officers of the Department of Justice in Texas.	492
33	Same to same.....	...do.....	Same subject. His note of the 3d instant relating to the movement of arms and ammunition into Mexico has been communicated to officers of the Department of Justice in Texas.	941
1425	Mr. Zamacona to Mr. Knox.	...do.....	Imprisonment of Blatt and Converse in Mexico. Advises that legal proceedings have been instituted against the captors of these men. Commends them to the benevolence of the American Government.	614
586	Mr. Wilson to Mr. Knox...	May 26	Political affairs in Mexico. Incloses correspondence with the foreign office in regard to the safety of Americans and other foreigners in Mexico City.	492
34	Mr. Knox to Mr. Zamacona.	...do.....	Same subject. His note of the 20th instant relating to the release of 12 Mexican Federal employees detained at San Diego, Cal., has been referred to the War Department.	493
35	Same to same.....	...do.....	Same subject. His note of the 19th instant relating to the filibustering activities of Ricardo Flores Magon has been communicated to the Departments of War and Justice.	493
	Mr. Wilson to Mr. Knox (telegram).	...do.....	Same subject. The President and Vice President resigned on the 25th instant, and Provisional President de la Barra took the oath of office and issued a proclamation to the Mexican people.	494
37	Mr. Knox to Mr. Zamacona.	May 27	Same subject. His note of the 13th instant, concerning the return of arms and ammunition taken from Mexican soldiers who surrendered to American troops, has been referred to the Departments of War and Justice.	494
1466	Mr. Zamacona to Mr. Knox.	...do.....	Same subject. Advises that a number of Mexicans who were on their way to Ensenada to assist in the maintenance of order were arrested at San Diego and on board the Mexican steamer General Reyes. Requests that an investigation be made and that they be released.	494
	Mr. Voetter to Mr. Knox (telegram).	...do.....	Same subject. Reports the election of Carranza as governor of Coahuila.	495
	President Taft to Provisional President de la Barra (telegram).	...do.....	Same subject. Felicitations upon his elevation to the Chief Magistracy of Mexico.	495

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
1465	Mr. Zamacona to Mr. Knox.	May 27	Same subject. Advises of the installation of Mr. de la Barra as Provisional President of Mexico.	496
	Mr. Knox to Provisional President de la Barra (telegram).	...do.....	Same subject. Felicitations.	496
	Mr. Knox to Mr. Wilson (telegram).	...do.....	Protection of Chinese in Mexico. If the Mexican Government has no objections the consular agent at Torreon may extend his good offices to Mr. Woo Lam Po.	616
	Provisional President de la Barra to Mr. Knox (telegram).	May 28	Political affairs in Mexico. Acknowledges telegram of congratulations.	496
	Same to President Taft (telegram).	...do.....	Same subject and purport.....	496
610	Mr. Wilson to Mr. Knox...	May 31	Same subject. Reports the first official visit of the diplomatic corps to President de la Barra.	497
	Mr. Knox to Mr. Jackson (telegram).	June 1	Same subject. Instructs to call on Ex-President Diaz upon his arrival at Habana and express to him the best wishes of this Government.	497
41	Mr. Knox to Mr. Zamacona.	...do.....	Overflow of the Colorado River. Incloses letter from the Department of the Interior transmitting correspondence between the American engineer and Col. Mayol, who commanded the troops on guard there, commending that officer for his services.	564
621	Mr. Wilson to Mr. Knox...	June 3	Political affairs in Mexico. Incloses copy of his note to the Mexican foreign office intimating that that Government would be held liable for all loss of life and damage to property unless adequate protection was afforded.	497
45	Mr. Knox to Mr. Zamacona.	June 6	Same subject. His note of the 24th ultimo, relating to the activities of Ricardo Flores Magon, has been referred to the Department of Justice. The department must disagree with his assertion that many scandalous filibustering attempts have been organized in American territory.	498
1509	Mr. Zamacona to Mr. Knox.	...do.....	Same subject. Requests permission for transit of Mexican troops through American territory.	499
635	Mr. Wilson to Mr. Knox...	...do.....	Protection of Chinese in Mexico. The Mexican Government has no objections to the use of good offices of the American consular agent at Torreon.	616
46	Mr. Knox to Mr. Zamacona.	June 7	Political affairs in Mexico. The department must dissent from the statement in his note of the 24th ultimo that the Mexican Government is not bound to make good claims on account of damages caused by the filibustering activities of Pryce and his adherents.	500
47	Mr. Knox to Mr. Zamacona.	...do.....	Same subject. Acknowledges his note of the 27th ultimo concerning the arrest of certain Mexican citizens at San Diego, this matter having been taken up by him with the Department of Justice prior to the receipt of the note by this department. Gives department's views.	501
48	Same to same.....	...do.....	Same subject. The President has granted permission for transit of Mexican troops through American territory.	503
49	Same to same.....	...do.....	Same subject and purport.....	503
	Same to same.....	June 8	Same subject. Incloses letter from the Attorney General, transmitting a report in relation to a report that on May 8, 1911, shots were fired at the Mexican side from the American side.	504
54	Mr. Wilson to Mr. Zamacona.	...do.....	Same subject. The Attorney General reports that his request for the prevention of enlistment of men for an invasion of Lower California is already in the hands of the United States attorney at Los Angeles.	505
57	Same to same.....	June 9	Same subject. The President has granted permission for the transit of Mexican troops through American territory from El Paso to Laredo.	503
59	Same to same.....	...do.....	Same subject. The Attorney General reports that the United States attorney at Los Angeles has been instructed to take appropriate measures in regard to the Mexican civil employees detained and molested at that place.	505
58	Same to same.....	June 10	Same subject. The governors of Texas, New Mexico, Arizona, and California have no objection to the transit through these States.	504
	Mr. Knox to Mr. Zamacona.	June 12	Same subject. Incloses reports from the War Department concerning the report that on May 8, 1911, several shots were fired from the American side to the Mexican side.	505
	Mr. Wagner to Mr. Knox..	June 15	Chamizal arbitration. Incloses the minutes of the fourteenth session of the commission, containing the award, the dissenting opinions of the Mexican and American commissioners and the protest of the American agent.	571

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
667	Mr. Wilson to Mr. Knox...	June 19	Protection of Chinese in Mexico. Incloses his note to the foreign office in regard to the menacing condition Chinese were finding themselves in Tapachula. Some of these Chinese possess American citizenship.	617
387	Mr. Knox to Mr. Wilson...	June 20	Political affairs in Mexico. Approves his action as reported in his No. 621 of the 3d instant.	506
	Mr. Collier to Mr. Knox (telegram).	...do.....	Same subject. It is reported that the insurrectos at Tia Juana will vacate and end the trouble if they are recognized as Madero insurrectos.	506
1560	Mr. Pereyra to Mr. Knox...	June 21	Same subject. Requests that appropriate measures be taken to prevent the Magonist junta at San Pedro, Cal., from sending an expedition to Lower California.	506
	Mr. Knox to Mr. Wilson (telegram).	...do.....	Same subject. Quotes telegram from Acapulco stating that revolutionists have demanded money from an American citizen under threat of violence. Instructs to ask for adequate protection.	507
85	Mr. Knox to Mr. Edwards..	June 22	Same subject. Disapproves his action in granting asylum to Mexican officials at the capture of Ciudad Juarez by the revolutionists.	507
68	Mr. Knox to Mr. Pereyra...	June 27	Same subject. His note No. 1560 of the 21st instant has been referred to the Department of Justice.	507
	Mr. Yung Kwan to Mr. Knox.	...do.....	Protection of Chinese in Mexico. Expresses appreciation of the Chinese Government for the protection afforded Chinese resident in Mexico by the American diplomatic and consular officers.	617
69	Same to same.....	June 29	Political affairs in Mexico. Advises him that the department is informed that recognition of the insurrectos at Tia Juana as Madero troops would end the trouble on the peninsula.	508
408	Mr. Knox to Mr. Wilson...	July 5	Protection of Chinese in Mexico. Approves his action as reported in his No. 667 of the 19th ultimo.	618
	Mr. Wilson to Mr. Knox...	July 11	Political affairs in Mexico. Long report on political and economic conditions in Mexico. In many places conditions closely approaching anarchy prevail.	508
81	Mr. Wilson to Mr. Pereyra.	July 15	Imprisonment of Blatt and Converse in Mexico. Incloses copy of a letter from the governor of Texas stating that the report that the captors of these men are threatened with arrest is without foundation.	614
9	Mr. Knox to Mr. Simpich..	...do.....	Protection of Chinese in Mexico. No specific instructions on this subject have been issued, but all consular officers are desired to render such assistance as may be possible	618
729	Mr. Wilson to Mr. Knox...	July 18	Political affairs in Mexico. President de la Barra stated in conversation with the ambassador that he intends to deal sternly and drastically with disorders wherever they show themselves.	510
189	Mr. Crespo y Martinez to Mr. Knox.	Aug. 11	Same subject The Mexican Government regrets its inability to accede to the friendly suggestion of the American Government that a decree of amnesty be issued for the participants in the Lower California troubles.	511
198	Same to same.....	Aug. 14	Same subject. Advises that Giuseppe Garibaldi, the well-known agitator, intends to send a large shipment of arms to Mexico for the purpose of fomenting disturbances. Requests that measures be taken to prevent this violation of the neutrality laws.	511
15	Mr. Knox to Mr. Crespo y Martínez.	Aug. 17	Same subject. The above note has been copied to the Department of Justice. Calls attention to previous notes of the department wherein the fundamental principles of the American neutrality laws have been fully set forth.	512
224	Mr. Crespo y Martínez to Mr. Knox.	...do.....	Same subject. Advises that Ricardo Flores Magón has bought arms and ammunition to recruit men in California and that Pino Suárez is preparing an expedition at New Orleans.	513
18	Mr. Wilson to Mr. Crespo y Martínez.	Aug. 22	Same subject. The above note has been referred to the Department of Justice.	513
	Mr. Knox to Mr. Crespo y Martínez.	Aug. 24	Chamizal arbitration. In the opinion of the Government of the United States the recent arbitration of this case has failed to meet the legitimate expectations of the two nations concerned. Suggests the negotiation of a declaratory treaty for the settlement of the boundary question.	598
849	Mr. Dearing to Mr. Knox...	Aug. 26	Political affairs in Mexico. Reports upon the situation in the State of Morelos where Emiliano Zapata persists in keeping a band of outlaws under arms, and the measures taken by the Government to suppress him.	513

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
875	Mr. Dearing to Mr. Knox..	Sept. 1	Same subject. Referring to the nomination of Francisco I. Madero for the presidency by the Progressive Constitutional Party incloses brief account of the party platform.	514
882	Same to same.....	...do.....	Chamizal arbitration. In the opinion of President de la Barra an international commission should be appointed to determine the course of the river in 1864, and should the commission find it impossible to trace the course of the river he would be willing to enter upon negotiations in order to arrive at a final settlement of the question.	600
887	Same to same.....	Sept. 4	Political affairs in Mexico. Reports that the Progressive Constitutional Party brought its labors to a close by nominating Pino Suárez for the vice presidency.	516
319	Mr. Crespo y Martínez to Mr. Knox.	Sept. 7	Protection of American citizens in Mexico. The Mexican Government will fully protect American citizens and property at Torreon.	516
345	Mr. Wilson to Mr. Wilson..	Sept. 12	Chamizal arbitration. The Government of Mexico is of the opinion that the sentence of the award should be carried out, but if insuperable obstacles are found to relocate the 1864 line of the river it will enter upon negotiations to overcome these difficulties.	603
544	Same to same.....	Sept. 18	Same subject. Any attempt to relocate the river line of 1864 would not only prove nugatory but would be sure to embitter the strained conditions at El Paso and Juarez.	603
948	Mr. Wilson to Mr. Knox...	Sept. 19	Message of President de la Barra to Congress. Incloses text and calls attention to the passage relating to the payment of claims growing out of the recent revolution.	517
	Same to same.....	Sept. 22	Political affairs in Mexico. The political situation is beginning to clear with the apparent certainty that Madero will be elected President and the anti-American feeling has almost completely disappeared.	518
	Same to same (telegram)...	Oct. 6	Same subject. He has been informed that a plot, involving Gen. Huerta, to launch a counter revolution has been discovered.	519
	Mr. Knox to Mr. Crespo y Martínez.	...do.....	Chamizal arbitration. Discusses his memorandum of the 12th ultimo, reiterates the reasons stated in department's memorandum of August 24, 1911, why this Government can not accept the award as valid and binding.	604
	Same to same (telegram)...	Oct. 18	Same subject. Reports the electian of Madero as President and Sçuarez as Vice President.	519
1034	Same to same.....	Oct. 27	Same subject. Reports on the recent elections. The President's brother has been sent to San Antonio to induce Gen. Reyes to abandon his hostile and revolutionary attitude.	519
	Same to same (telegram)...	Nov. 6	Same subject. Reports the inauguration of Madero as President.	520
625	Mr. Crespo y Martínez to Mr. Knox.	Nov. 10	Same subject. Advises that the Mexican Government has serious reasons to believe that partisans of Gen. Bernardo Reyes at San Antonio are preparing an armed expedition against Mexico.	525
	Mr. Wilson to Mr. Knox (telegram).	Nov. 15	Same subject and purport.....	521
	Mr. Knox to Mr. Crespo y Martínez.	Nov. 17	Same subject. His note No. 625 of the 10th instant has been communicated to the Department of Justice. Calls attention to previous correspondence in which it was observed that this Government can not take action against alleged violators of the neutrality laws unless proof has been submitted.	521
	Mr. Garrett to Mr. Knox (telegram).	Nov. 18	Same subject. Reports that Gen. Reyes and other revolutionists were arrested for violation of the neutrality laws.	522
	Same to same (telegram)...	Nov. 19	Same subject. Reports capture of quantity of arms and ammunition belonging to the Reyes party, by American troops.	522
387	Mr. Lancaster to Mr. Knox.	...do.....	Same subject. Reports that Gen. Reyes was indicted by the Federal grand jury and that orders for his arrest have been issued.	522
	Mr. Crespo y Martínez to Mr. Knox (telegram).	Dec. 3	Same subject. Requests that measures be taken to prevent the delivery of a quantity of arms to Reyistas.	523
672	Mr. Knox to Mr. Wilson....	Dec. 11	Same subject. Incloses a mass of testimony in refutation of the allegations of the Mexican foreign office concerning the battle of Agua Prieta. The Mexican note was transmitted in his No. 479 of Apr. 17, 1911.	523

MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
87	Mr. Knox to Mr. Crespo y Martínez.	Dec. 16	Same subject. The ambassador's telegram of the 14th instant, requesting speedy action for the arrest of certain insurgents, has been transmitted to the Department of Justice.	524
89	Same to same	Dec. 20	Same subject. His telegram of the 15th instant advising that a revolutionary junta at Cajones, Cal., is preparing an invasion of lower California, has been transmitted to the Department of Justice.	524
1176	Mr. Wilson to Mr. Knox	Dec. 30	Same subject. Reports that Gen. Reyes surrendered to Federal rurales and is confined in prison.	525
799	Mr. Crespo y Martínez to Mr. Knox.	...do	Same subject. Requests good offices to cause the authorities of Arizona to tighten the vigilance against Mexican revolutionists.	525

MOROCCO.

	Mr. Jusserand to Mr. Knox.	Nov. 3	Proposal to the United States to adhere to the Franco-German Convention relative to Morocco. Incloses text of the agreement and requests the adherence thereto by the United States Government.	621
	Mr. Adee to Mr. Jusserand	Nov. 8	Same subject. As the adherence of this Government to this agreement would imply modification of certain of its treaty rights it would require the consent and advice of the Senate. Will discuss the matter further.	622
	Mr. Jusserand to Mr. Knox.	Dec. 6	Same subject. Incloses explanatory letters exchanged between the French and German Governments and expresses hope that no objection will be raised by the Government of the United States to the introduction of reforms in Morocco.	622
	Mr. Knox to Mr. Jusserand	Dec. 15	Same subject. This Government would be inclined, at the proper time, to enter into new treaty arrangements to modify the existing treaty rights.	623

NICARAGUA.

		1910.		
	Mr. Martínez to Mr. Dawson.	Nov. 5	Settlement of foreign claims against Nicaragua. Proposes the formation of a commission composed of one Nicaraguan and one American citizen to investigate unliquidated claims against Nicaragua.	625
		1911.		
	President Taft to President Estrada (telegram).	Jan. 1	Political affairs in Nicaragua. Recognition of President Estrada. Congratulations upon assumption of the Presidency.	648
	Mr. Moffat to Mr. Knox (telegram).	...do	Same subject. Résumé of President Estrada's message.	648
	Mr. Knox to Mr. Northcott.	Jan. 20	Same subject. Personal instruction upon appointment. Gives short history of Nicaragua's political conditions and incloses agreements signed by President Estrada.	649
	Mr. Wilson to Mr. Meyer	Feb. 15	Same subject. Incloses two telegrams from American consular officers in regard to recent political events in Nicaragua and the advisability of keeping a naval vessel at Corinto.	654
7	Mr. Northcottto Mr. Knox	Feb. 25	Same subject. Gives his impressions as to political conditions, and recites difficulties confronting President Estrada.	655
	Mr. Knox to Mr. Northcott (telegram).	Feb. 27	Settlement of foreign claims against Nicaragua. Suggests specific plan for a mixed tribunal.	627
	Mr. Northcott to Mr. Knox (telegram).	Mar. 2	Same subject. Reports that President Estrada is pleased with above plan for a commission.	628
13	Same to same	Mar. 4	Political affairs. The outlines of President Estrada's policy, given to the minister in private conferences, will be laid before the department by Mr. Ernest H. Wands, who leaves for Washington to-morrow.	656
	Mr. Northcott to Mr. Gómez.	Mar. 7	Settlement of foreign claims. Submits department's plan for a mixed tribunal.	628
	Mr. Northcott to Mr. Knox.	Mar. 9	Same subject. The Nicaraguan Government has consented to the proposed constitution of the commission.	628
	Mr. Gómez to Mr. Northcott.	Mar. 14	Same subject. The Nicaraguan Government accepts the American proposal for the constitution of the commission.	629
	Mr. Wilson to Mr. Northcott (telegram).	...do	Same subject. Final instruction in regard to the exchange of notes concerning the establishment of the claims commission.	629

NICARAGUA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Mr. Northcott to Mr. Gómez.	Mar. 21	Same subject. The Government of the United States has assented to the proposal of the Nicaraguan Government for the formation of a claims tribunal. Recommends Thomas P. Moffat for appointment as second commissioner.	630
	Mr. Gómez to Mr. Northcott.	Mar. 24	Same subject. The Government of Nicaragua will proceed to take the necessary steps for the creation of the tribunal.	630
	.....	.....	Same subject. Act of Apr. 4–May 17, 1911, approving presidential decree of Mar. 29, 1911, establishing the tribunal or mixed commission. Text.	631
21	Same to same.....	Mar. 27	Political affairs. Reports that political conditions are very unsettled. Give details.	656
28	Same to same.....	Apr. 6	Same subject. President Estrada vetoed the constitution which had been hurriedly passed by the assembly, dissolved the assembly, and called for a new election.	657
	Mr. Knox to Mr. Northcott (telegram).	Apr. 8	Same subject. Instructs to impress upon the party leaders that a failure to stand by their agreement might jeopardize the future of Nicaragua. This applies especially to the approaching elections.	658
	Same to same (telegram)..	Apr. 17	Settlement of foreign claims against Nicaragua. Otto Schoenrich has been appointed a member of the claims commission.	633
	Mr. Wilson to Mr. Northcott.	Apr. 21	Political affairs. This Government is gratified that President Estrada has been proceeding along lines of the agreement of Oct. 27, 1910, and expects that the financial rehabilitation and the settlement of claims through the commission will restore peace and prosperity in Nicaragua.	658
16	Same to same.....	...do.....	Same subject. Refers him to the above telegram as to department's views.	659
38	Mr. Northcott to Mr. Knox.	Apr. 25	Same subject. Reports departure of Gen. Emiliano Chamorro for Salvador. Conditions continue quiet.	659
41	Same to same.....	May 5	Same subject. The newly elected assembly convened on Monday last. The President has asked for authority to negotiate through the Government of the United States.	660
	Same to same (telegram)...	May 9	Same subject. After causing the arrest of Minister of War Mena President Estrada resigned in favor of Vice President Díaz, who immediately released Mena.	660
	Same to same (telegram).....	...do.....	Settlement of foreign claims against Nicaragua. Reports arrival of Judge Schoenrich and departure of Moffat.	633
	Same to same.....	May 11	Political affairs. Díaz is recognized as President, and the assembly is expected to confirm him.	661
	Mr. Wilson to Mr. Northcott (telegram).	May 14	Same subject. This Government is gratified that the Díaz Government desires to continue the program.	661
53	Mr. Northcott to Mr. Knox.	May 25	Same subject. Reports rumors of a contemplated uprising. Requests that a war vessel be stationed at Corinto.	661
	Same to same (telegram)...	May 30	Same subject. A plot supported by Zelaya has been discovered. The President requests that a war vessel patrol the coast and watch for filibuster that left San Francisco some time ago.	662
	Same to same (telegram)...	May 31	Same subject. The fort overlooking Managua blew up to-day. The President of Honduras advises that the filibuster Eureka left Salina Cruz with a cargo of arms.	662
	Mr. Knox to Mr. Northcott (telegram).	June 1	Same subject. Instructs to inform the Díaz Government that the United States will continue to support it in so far as it properly may. A war vessel has been ordered to watch for the reported filibuster.	662
	Mr. Northcott to Mr. Knox (telegram).	June 2	Same subject. It is reported that the Eureka landed arms on some island in the gulf. The Nicaraguan Government desires that the Government of Salvador intercept them.	663
	Mr. Knox to Mr. Northcott (telegram).	June 5	Same subject. Instructs to send the above information to the legation at San Salvador and to the Yorktown.	663
58	Mr. Northcott to Mr. Knox.	...do.....	Same subject. Reports conversation between himself and President Díaz and incloses an agreement between Díaz and Mena.	663
	Same to same (telegram)...	June 9	Same subject. Urgently requests that the Yorktown remain at Corinto at least two weeks.	665
	Mr. Knox to Mr. Northcott (telegram).	June 26	Settlement of foreign claims against Nicaragua. The department desires certain modifications in the decree establishing the claims commission.	633

NICARAGUA—Continued.

No.	From and to whom	Date.	Subject.	Page.
		1911.		
28	Mr. Knox to Mr. Gunther...	June 27	Political affairs. The Navy Department has arranged for the Yorktown to remain at Corinto until relieved by the Vicksburg.	665
	Mr. Gunther to Mr. Knox (telegram).	July 1	Settlement of foreign claims against Nicaragua. Asks whether the wording "by the present Nicaraguan Government" in article 6 applies to the Estrada Government.	635
	Same to same (telegram)...	July 3	Political affairs. Reports the departure of a vessel laden with arms from Guayaquil for Nicaragua.	665
	Mr. Knox to Mr. Gunther (telegram).	July 7	Settlement of foreign claims against Nicaragua. The words "present Nicaraguan Government" were inserted because the decree provides for the cancellation and annulment of contracts and concessions by executive decree.	635
	Mr. Gunther to Mr. Knox (telegram).	July 10	Same subject. Not more than three contracts or concessions are considered illegal or unconstitutional. Requests further instructions.	636
	Same to same (telegram)...	July 12	Same subject. Reports that the substance of department's telegram of June 26 has leaked out and has produced considerable agitation.	636
	Mr. Knox to Mr. Gunther (telegram).	July 18	Same subject. Explains the attitude of the department and instructs him to explain it to the Nicaraguan Government.	636
	Mr. Gunther to Mr. Knox (telegram).	July 20	Same subject. President Díaz, Mena, and the Nicaraguan member of the commission have agreed to the modifications proposed by the department, but desire postponement of submission of same to the assembly.	637
	Same to same (telegram)...	...do....	Political affairs. Reports that a revolution is set for July 26.	665
	Mr. Knox to Mr. Gunther (telegram).	July 26	Settlement of foreign claims against Nicaragua. Department agrees to postponement of modifications of decree.	637
	Mr. Gunther to Mr. Knox (telegram).	July 29	Same subject. Transmits amendatory decree worded as President Díaz is willing to approve it.	638
	Same to same (telegram)..	July 30	Political affairs. Reports his endeavors to mediate between Díaz and Mena.	666
	Same to same (telegram)...	Aug. 1	Same subject. Reports complete reconciliation between Díaz and Mena.	666
	Same to same (telegram)...	Aug. 7	Settlement of foreign claims against Nicaragua. Confirmation copy of the amendatory decree.	638
113	Same to same.....	Sept. 5	Political affairs. Reports conversations with Gen. Mena, who is anxious to be elected President by the assembly in contravention of the constitution.	666
	Same to same (telegram)...	Sept. 23	Settlement of foreign claims against Nicaragua. To enable him to submit the mixed claims commission decree to the assembly President Díaz hopes the department will soon place him in position to do so.	638
	Mr. Wilson to Mr. Gunther (telegram).	Sept. 26	Same subject. The Spanish text of the amendments submitted in legation's No. 101, of Aug. 7, is entirely satisfactory to the department.	638
	Mr. Gunther to Mr. Knox (telegram).	Sept. 28	Same subject. The President will seize the first opportunity to submit the amendatory decree to the assembly. The opposition to the loan contract is becoming more determined and dangerous propaganda is being conducted against the loan.	639
	Same to same (telegram).	Sept. 29	Political affairs. President Diaz requests me to state that the tacit consent of the department to the election of Mena by the assembly for the four-year constitutional term would result in the immediate approval of the loan and mixed commission matters.	667
51	Mr. Adee to Mr. Gunther...	Sept. 30	Same subject. The ratification of the pending loan contracts and the amendatory mixed commission decree should be disposed of before any political matter can be taken up by the department.	667
	Mr. Gunther to Mr. Knox (telegram).	Oct. 3	Same subject. The loan contracts will be sent to the assembly to-day.	668
	Mr. Adee to Mr. Gunther (telegram).	Oct. 5	Same subject. The loan and claims commission matters should be disposed of before consideration of political matters which should not be discussed unnecessarily.	668
1593	Mr. Adee to Mr. Reid.....	Oct. 10	Settlement of foreign claims against Nicaragua. Incloses copy of an instruction to the legation at Madrid, giving the attitude of the department in regard to the Nicaraguan claims commission.	639
133	Mr. Gunther to Mr. Knox..	Oct. 26	Political affairs. Advises that the assembly elected Gen. Luis Mena as President and Fernando Solorzano as Vice President.	668

NICARAGUA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
137	Mr. Gunther to Mr. Knox..	1911.. Oct. 31	Settlement of foreign claims against Nicaragua. Incloses certified copy of the amendatory decree of the mixed commission as approved by the assembly.	640
	Same to same (telegram)...	Nov. 1	Political affairs. President Díaz desires to be informed of the attitude of the department concerning the election of Mena as President.	669
	Mr. Reid to Mr. Knox (telegram).	Nov. 2	Settlement of foreign claims against Nicaragua. The British foreign office places no obstacle in the way of British claimants who present their claims before the commission, but does not accept the commission as a bar to diplomatic intervention.	643
	Mr. Gunther to Mr. Knox (telegram).	Nov. 6	Same subject. The President has been informed by the German Legation that the German Government does not recognize the mixed commission.	643
	Mr. Castrillo to Mr. Knox..	Nov. 7	Same subject. The Nicaraguan Government has declared the commissionership held by Mr. Moffat vacant and requests appointment of a new commissioner.	644
	Mr. Knox to Mr. Gunther (telegram).	Nov. 10	Same subject. If the Nicaraguan Government decides that European claimants must exhaust legal remedies afforded by the Nicaraguan tribunals the department believes that international law and practice furnish ample precedents therefor.	643
	Mr. Gunther to Mr. Knox (telegram).	Nov. 17	Same subject. Referring to the above telegram. The President hesitates to take the initiative by sending a circular note to the interested powers until he is assured of the support of the United States.	644
	Same to same (telegram)...	Nov. 18	Political affairs. Asks whether he is to call attention to the failure of the assembly to call for a presidential election under the constitution.	669
	Mr. Knox to Mr. Gunther (telegram).	Nov. 20	Same subject. The currency experts, collector of general customs, and assistants will leave here before Dec. 1. The assembly may wish to remain in session until after their arrival.	669
	Mr. Gunther to Mr. Knox (telegram).	Nov. 28	Settlement of foreign claims against Nicaragua. German and Italian claimants have withdrawn their claims from the commission.	645
	Mr. Wilson to Mr. Gunther (telegram).	Dec. 2	Same subject. Refers to department's telegram of Nov. 10 as a guide regarding the treatment of European claims.	645
	Same to same (telegram)...	...do....	Same subject. Mr. Arthur R. Thompson is proposed as successor to Moffat on the claims commission.	645
152	Mr. Gunther to Mr. Knox...	...do....	Political affairs. The assembly has completed the constitution and will remain in session as a legislature.	669
13	Mr. Knox to Mr. Castrillo..	Dec. 5	Settlement of foreign claims against Nicaragua. Mr. Arthur B. Thompson has been nominated for appointment as successor to Moffat on the Nicaraguan claims commission.	644
	Mr. Gunther to Mr. Knox (telegram).	...do....	Same subject. The Nicaraguan Government appointed Arthur B. Thompson on the mixed claims commission.	645
159	Same to same.....	Dec. 16	Same subject. Incloses copy of an identic note of the Nicaraguan Government to the interested powers advising them of the establishmnet of the claims commission.	646
	Same to same (telegram)...	Dec. 18	Political affairs. It is reported from Costa Rica that exiled Zelayistas headed by Irias and supplemented by Estrada Cabrera are about to move against Nicaragua.	670
	Same to same (telegram)...	Dec. 21	Same subject. Incloses a translation of a letter from President Díaz reciting the difficulties confronting Nicaragua and signifying his intention to conclude a treaty with the Government of the United States, permitting that Government to intervene in the internal affairs of Nicaragua in order to maintain peace and a lawful government.	670
	Mr. Knox to Mr. Gunther (telegram).	Dec. 23	Same subject. Instructs him to express to President Díaz the department's gratification for his spirit of confidence in the good faith of the United States. His suggestion will be given deep and careful consideration.	671

NORWAY.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Bryn to Mr. Knox.....	1911. Mar. 20	Interpretation of the naturalization convention of 1869 between the United States and Sweden and Norway. Asks to be informed whether this Government accepts the interpretation of Article III that the two years' stay in the original country shall be considered to be only a term, after the expiration of which the person concerned shall be deemed to have renounced his American citizenship.	672
37	Mr. Knox to Mr. Bryn.....	Mar. 29	Same subject. Gives the interpretation of this Government of the article in question.	673

PANAMA.

	Messrs. Calvo and Porras to Mr. Knox.	1911, June 10	Settlement of the boundary dispute between Costa Rica and Panama. Incloses a letter to the Chief Justice of the United States requesting him to accept the office of arbitrator.	674
	Mr. Knox to Mr. White....	June 13	Same subject. Transmits above letter.....	675
	Mr. Knox to Mr. Porras....	...do....	Same subject. Inclosure to note of June 10 has been forwarded to the Chief Justice.	675
	Mr. White to Mr. Knox....	July 26	Same subject. Incloses letters to the ministers of Costa Rica and Panama accepting the office of arbitrator under certain conditions.	675
	Mr. Knox to Mr. White....	Aug. 2	Same subject. Incloses a letter from the ministers of Costa Rica and Panama accepting the conditions named by Mr. White.	676
	President Taft to President Arosemena (telegram).	Nov. 3	National anniversary of the Republic of Panama. Greetings.	677
	President Arosemena to President Taft (telegram).	Nov. 4	Same subject. Acknowledges with appreciation above greetings.	678

PERSIA.

21	Mirza Ali Kuli Khan to Mr. Knox.	1910. Dec. 28	Employment by Persia of American experts as financial assistants. Transmits copy of a telegram from the Persian minister for foreign affairs requesting department's assistance in engaging financial experts.	679
34	Mr. Knox to Mirza Ali Kuli Khan.	1911. Jan. 5	Same subject. The request contained in above note is receiving the consideration of the department.	679
	Mirza Ali Kuli Kahn to Mr. Knox.	Feb. 17	Same subject. Gives list of experts engaged and the terms and conditions of the engagements.	680
36	Mr. Knox to Mirza Ali Kuli Khan.	Feb. 24	Same subject. The department hopes that the services rendered by the American advisers will be of material assistance to the Persian Empire.	681
128	Mr. Russell to Mr. Knox...	May 24	Same subject. Reports arrival of the American financial advisers.	681
132	Same to same.....	June 13	Same subject. Incloses translation of an act of the Medjles giving full powers to Mr. Shuster.	682
	Mr. Adee to Mr. Russell (telegram).	July 31	Same subject. Instructs to report concerning the political situation and the attitude of the British and Russian Governments toward the American financial advisers.	682
	Mr. Russell to Mr. Knox (telegram).	Aug. 1	Same subject. Reports that Russian, German, and Italian diplomatic officers are trying to prevent Shuster's success.	682
64	Mirza Ali Kuli Khan to Mr. Knox.	Nov. 25	Same subject. Incloses a translation of a telegram from the Persian minister for foreign affairs stating that various activities of Mr. Shuster, treasurer general of Persia, are complained of by the Russian Government and have involved the Persian Government in difficulties, and requesting the view of this Government in the matter.	683
	Mr. Knox to Mirza Ali Kuli Khan.	Nov. 27	Same subject. The department is unable to offer any suggestions on the above matter.	683
	Mr. Russell to Mr. Knox (telegram).	Nov. 30	Same subject. Transmits a telegram from Shuster stating that the Russian Government had demanded his dismissal and asking what protection he is entitled to as an American citizen.	684
	Mr Knox to Mr. Russell (telegram).	Dec 1	Same subject. Instructs to impress upon the Government of Persia the expectation of this Government that all proper measures be taken to insure the personal safety and well-being of Shuster and his associates, and to afford them all proper protection as American citizens.	685

PERSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
129	Mr. Guild to Mr. Knox.....	Dec. 15	Same subject. The minister for foreign affairs states that complete personal protection will be given to Mr. Shuster, including, if necessary, an armed escort out of Persia.	685
	Mr. Knox to Mr. Russell (telegram).	Dec. 27	Same subject. Asks information about the status of Mr. Shuster and his associates.	686
	Mr. Russell to Mr. Knox (telegram).	Dec. 28	Same subject. The Cabinet informed Mr. Shuster that they were compelled to recall him from the Persian service. He acquiesced and will depart in a week or two.	686

PERU.

		1911.		
32	Mr. Howard to Mr. Knox..	Aug. 1	Message of the President of Peru to Congress. Extracts.	687

PORTUGAL.

		1911.		
83	Mr. Lorillard to Mr. Knox.	Feb. 10	Proclamation of the Republic of Portugal. Recognition by the United States. The minister for foreign affairs hopes that the United States will encourage the infant republic by early recognition.	689
19	Mr. Knox to Mr. Lorillard.	Mar. 3	Same subject. The attitude of this Government toward the new Government of Portugal is one of benevolent expectancy.	690
	Same to same (telegram)...	June 6	Same subject. Instructs him to inform the minister for foreign affairs of the official recognition of the new Government of Portugal by the Government of the United States as soon as the Constituent Assembly has expressed the voice of the people.	690
	Mr. Lorillard to Mr. Knox (telegram).	June 7	Same subject. Asks whether the proclamation of the Republic by the assembly means definite and final action.	690
	Mr. Knox to Mr. Lorillard (telegram).	...do....	Same subject. Instructs to recognize the Republic of Portugal as soon as it may be officially proclaimed by the Constituent Assembly.	691
	Mr. Lorillard to Mr. Knox (telegram).	June 19	Same subject. The Government of the Republic has been recognized to-day by the Government of the United States, the first of the great powers to do so.	691
160	Same to same.....	June 20	Same subject. Incloses copy of the proclamation of the Republic by the Constituent Assembly and his note of recognition.	691
	Mr. Alte to Mr. Knox.....	...do....	Same subject. Advises that the Constituent Assembly adopted a republican form of government for Portugal.	693
162	Same to same.....	June 23	Same subject. Incloses copy of the reply of the minister for foreign affairs to his note of recognition of the Republic.	692
80	Mr. Wilson to Mr. Alte.....	July 1	Same subject. Advises him that the Republic of Portugal was recognized immediately after its proclamation by the Constituent Assembly.	693
	Mr. Alte to Mr. Knox.....	July 6	Same subject. Incloses a note from the minister for foreign affairs expressing appreciation for the prompt and final recognition of the Republic.	694
81	Mr. Wilson to Mr. Alte.....	July 15	Same subject. Acknowledges with appreciation receipt of above note.	694
	Mr. Morgan to Mr. Knox (telegram).	Aug. 24	Same subject. Reports the election of Manuel Arriaga as President of Portugal.	694

RUSSIA.

		1911.		
	Mr. Knox to Mr. Guild (telegram).	Dec. 15	Termination of the treaty of 1832 between Russia and the United States. Instructs to give to the minister for foreign affairs official notice of the termination of the treaty, and to express the desire of this Government to enter into negotiations for a modern treaty of friendship, commerce, and navigation.	695

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Same to same (telegram)...	Dec. 15	Same subject. It is necessary for the department to be informed no later than Sunday afternoon that the notice of abrogation of the treaty has been delivered to the minister for foreign affairs.	696
	Mr. Guild to Mr. Knox (telegram).	Dec. 16	Same subject. Reports conversation with the minister for foreign affairs on the subject of Jews in Russia and the vote of the House of Representatives on the abrogation of the treaty.	696
	Same to same (telegram)...	Dec. 17	Same subject. The note of abrogation of the treaty was presented to the minister for foreign affairs, but he felt unable to listen to any agreement as to public announcement of any kind.	697
	Mr. Knox to Mr. Guild (telegram).	...do....	Same subject. As department's telegrams seem to have been misinterpreted, instructs him to withdraw the suggestion for a public announcement.	698
	Mr. Guild to Mr. Knox (telegram).	Dec. 18	Same subject. Corrected copy in English, with translation in French, of department's telegram was presented to the minister for foreign affairs to-day.	699
	Same to same (telegram)...	...do....	Same subject. Transmits the official answer to his note.	699

SALVADOR.

		1911.		
	.....	Feb. 8	Message of the President of Salvador to congress. Extract concerning the United States.	700
	.....	Feb. 13	Report of the minister for foreign affairs of Salvador to congress. Extracts concerning the United States.	700
	.....	...do....	Extradition treaty between the United States and Salvador. Text.	702

SIAM.

		1911.		
	Mr. King to Mr. Knox (telegram).	Feb. 10	Obsequies of the late King Chulalongkorn of Siam. The Siamese would be pleased to have foreign diplomats specially accredited for the occasion of the cremation of the late King.	708
	Mr. Knox to Mr. Devawongse (telegram).	Feb. 28	Same subject. Mr. Hamilton King has been designated special representative of the President on the occasion of the cremation of the remains of the late King.	708
	Mr. Knox to Mr. King (telegram).	...do.....	Same subject. Advises him of his designation as special representative of the President on the occasion of the cremation of the remains of the late King.	708
	Mr. Devawongse to Mr. Knox (telegram).	Mar. 1	Same subject. Acknowledges with thanks receipt of department's telegram of the 28th ult.	709
	Mr. King to Mr. Knox (telegram).	Mar. 16	Same subject. The cremation took place to-day.....	709
722	Same to same.....	Mar. 25	Same subject. Account of the ceremonies connected with the cremation.	709
	Mr. Luang Sanpakitch to Mr. Knox.	July 24	Coronation of King Maha Vajiravudh of Siam. The King would appreciate the presence of a special representative on this occasion.	710
21	Mr. Knox to Mr. Luang Sanpakitch.	Aug. 11	Same subject. The United States will be appropriately represented on this occasion.	710
	Mr. Adee to Mr. King (telegram).	Oct. 25	Same subject. Letter accrediting him as special representative of the President at the coronation has been mailed to-day.	711
	Same to same (telegram)...	Nov. 7	Same subject. Col. Lea Febiger, United States Army, will assist you at the coronation.	711
	Mr. Knox to Mr. King (telegram).	Nov. 17	Same subject. Appointment as special representative of the President at the coronation.	711
	President Taft to the King of Siam (telegram).	Dec. 1	Same subject. Felicitations.....	711
	The King of Siam to President Taft (telegram).	Dec. 2	Same subject. Acknowledges above telegram with thanks.	712

SPAIN.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
	Mr. Riaño to Mr. Knox....	Mar. 2	Interpretation of the extradition treaty of 1904 between the United States and Spain. Requests arrest and provisional detention, with the view to extradition, of Tomás Loscesta and Lazareto Calvo.	716
	Mr. Knox to Mr. Riaño....	Mar. 3	Same subject. Advises him of the procedure necessary to effect the arrest of the fugitives.	716
	Mr. Riaño to Mr. Knox....	Mar. 8	Same subject. Complains of the actions of United States Commissioner Shields in declining to act unless legal counsel is employed in behalf of the Spanish Government.	717
	Mr. Wilson to Mr. Wickersham (telegram).	Mar. 9	Same subject. Advises him of the above and requests that the United States attorney at New York be instructed to assist the Spanish consul general.	718
34	Mr. Wilson to Mr. Riaño...	...do.....	Same subject. Advises him of the above.....	718
	Same to same.....	Mar. 17	Same subject. Incloses letter from the Attorney General showing that Commissioner Shields declined to act because the Spanish consul general could not furnish sufficient information to warrant the arrest of the two men.	718
	Mr. Riaño to Mr. Knox....	Mar. 18	Same subject. Submits argument claiming that the provisions of the treaty have not been observed by reason of the requirements of the extradition magistrate, which are wholly foreign to the treaty.	719
37	Mr. Knox to Mr. Riaño....	Mar. 27	Same subject. Refutes above argument, citing references.	721
	Mr. Riaño to Mr. Knox....	Sept. 28	Interpretation of article 23 of the treaty of July 3, 1902, between the United States and Spain. The Spanish Government accepts the position of the United States as interpreted in department's note of Dec. 7, 1910.	713
	Same to same.....	...do.....	Interpretation of article 27 of the treaty of July 3, 1902, between the United States and Spain. States that the courts of the State of New York decline to surrender an estate of a deceased Spanish subject to the Spanish consul general unless a bond be first filed. Asks that steps be taken to have the court desist from its demand.	713
83	Mr. Adee to Mr. Riaño.....	Oct. 21	Same subject. There is no provision in the treaty authorizing Spanish consular officers to collect estates of deceased Spanish subjects without filing a bond as required by local law, nor is there such a rule of international law.	714
87	Mr. Knox to Mr. Riaño....	Nov. 7	Same subject. The department believes that the demand of the New York court for a bond in the case in question will be found to be not an unusual or unreasonable procedure.	715

SWEDEN.

	.....	1911. Mar. 20	Convention between the United States and Sweden defining the rights, privileges, and immunities of consular officers. Text.	723

SWITZERLAND.

	Mr. Martin to Mr. Knox....	1910. July 29	Adhesion of Turkey to the Red Cross Convention of 1906, and use of the Red Crescent as the emblem of her sanitary service. The Ottoman Government will strictly adhere to the principle of reciprocity, and will respect the Red Cross in Turkey in the same manner as the Red Crescent is respected in other countries.	733
69	Mr. Knox to Mr. Ritter....	1911. May 3	Same subject. The above note has been communicated to the War Department.	734
	Mr. Ritter to Mr. Knox....	May 10	Same subject. The Russian Government has informed his Government that it has no objection to the granting of the power to the Turkish Government to use the Red Crescent in the case of war on land.	734

SWITZERLAND—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1911.		
71	Mr. Knox to Mr. Ritter....	May 18	Same subject. The above note has been communicated to the War Department and the American National Red Cross.	735
	Mr. Knox to Mr. Ehrensvard.	Aug. 2	Same subject. The Government of the United States is disposed to accord recognition to the Red Crescent on the condition of a similar mutual recognition of the Red Cross by the Ottoman Government.	735
	Mr. Martin to Mr. Knox...	Sept. 11	Same subject. The Swiss Federal Council asks the Governments signatory to the Geneva Convention of 1906 to notify it whether they will, within their territories, extend the same protection to the Red Crescent as is enjoyed by the Red Cross.	736
	Mr. Martin to Mr. Knox....	Oct. 5	Interpretation of the extradition treaty of 1900 between the United States and Switzerland. States that his Government has been asked to pay certain fees in extradition cases in contravention of Article XIII of the treaty.	730
89	Mr. Knox to Mr. Martin....	Nov. 13	Same subject. Incloses copy of a letter from the Department of Justice stating that the fees referred to were inadvertently charged.	732

TURKEY.

		1910.		
259	Mr. Philip to Mr. Knox....	Oct. 17	Expulsion of C. Telford Erickson, American citizen, from Albania, by Turkish authorities. Reports facts in the case, his protest to the Ottoman foreign office, which remains unanswered, and advises that the Ottoman Government be held strictly responsible for this unwarranted treatment of an American citizen.	738
	Mr. Adee to Mr. Philip (telegram).	Nov. 1	Same subject. Instructs to press for immediate removal of restraints against the return of Erickson to Elbassan and to reserve all rights in regard to damages.	740
	Mr. Knox to Mr. Carter (telegram).	Nov. 28	Same subject. Instructs to report status of the case; also to investigate reported arrest of Erickson at Monastir, and to take appropriate action.	740
	Mr. Carter to Mr. Knox (telegram).	Nov. 29	Same subject. Strong protest was made in regard to the arrest of Erickson at Monastir, and the Government promised immediate investigation.	740
	Mr. Knox to Mr. Carter (telegram).	Nov. 30	Same subject. Instructs to insist upon immediate reply to the representations made by the embassy.	741
284	Mr. Carter to Mr. Knox....	...do.....	Same subject. Incloses copies of his notes to the foreign office in the case.	741
	Same to same (telegram) ..	Dec. 4	Same subject. The foreign office states that the return of Erickson to Elbassan is impossible on account of the disturbed conditions there.	743
289	Same to same	...do....	Same subject. Reports status of case in detail and incloses correspondence with the foreign office.	743
	Mr. Adee to Mr. Carter (telegram).	Dec. 5	Same subject. If Erickson returns to Elbassan, inform the Ottoman Government that it will be held responsible for his safety.	745
175	Mr. Knox to Mr. Carter....	Dec. 8	Same subject. The Ottoman ambassador here has stated that his Government will assent to and facilitate the return of Erickson to Elbassan as soon as normal conditions are reestablished there.	746
	Mr. Carter to Mr. Knox (telegram).	...do.....	Same subject. Erickson will not return to Elbassan at present, but will go to Monastir to rejoin his family.	746
		1911.		
	Mr. Knox to Mr. Carter (telegram).	Jan. 3	Same subject. To avoid futile argument with the Ottoman Government, instructs him to endeavor to obtain a note from that Government expressing regret, whereupon the incident may be considered closed.	746
310	Mr. Carter to Mr. Knox....	Jan. 31	Same subject. Incloses note of regret from the Ottoman foreign office.	747
	Mr. Knox to Mr. Carter (telegram).	Feb. 28	Same subject. This Government is disposed to regard the Erickson case as closed.	748

VENEZUELA.

No.	From and to whom.	Date.	Subject.	Page
		1910.		
	Mr. Carpenter to Mr. Knox	Oct. 26	Arbitration of the case of the Orinoco Steamship Co. against Venezuela. Text of award.	749
640	Mr. Whitehouse to Mr. Knox.	Dec. 20	Same subject. Incloses check in payment of the award.	753
		1911.		
	Mr. Knox to Mr. Matos....	Feb. 27	Celebration of the first centenary of the independence of Venezuela. The President has signified his intention to be specially represented on the occasion.	753
	.....	May 10	Message of the President of Venezuela to Congress. Passages relating to the United States quoted.	749
35	Mr. Garrett to Mr. Knox...	May 29	Celebration of the first centenary of the independence of Venezuela. Incloses program of the festivities. The President will place a wreath on the statue of Washington on July 4. Suggests that he be authorized to place a wreath on the statue of Bolívar.	753
	Mr. Wilson to Mr. Garrett (telegram).	June 12	Same subject. The President has designated Mr. Thomas C. Dawson as special ambassador for this occasion and Capt. Marsh, United States Navy, naval attaché.	754
	Mr. Knox to Mr. Garrett (telegram).	June 16	Same subject. The ambassador will reside at the house reserved by the Venezuelan Government. Instructs to extend invitations to a lunch and a dinner to be given by the ambassador, who will also place a wreath on the statue of Bolívar.	754
	Mr. Garrett to Mr. Knox (telegram).	June 20	Same subject. Submits program for entertainments at the legation and the temporary embassy.	755
	President Taft to President Gómez (telegram).	July 5	Same subject. Felicitations.	755
	President Gómez to President Taft (telegram).	July 6	Same subject. Acknowledges above telegram, with thanks.	755

CORRESPONDENCE.

CIRCULARS.

EXPATRIATION.

File No. 136.2/35a. No. 77. General Instruction Consular.

Rule (d) under which the presumption arising under section 2 of the act of March 2, 1907, may be overcome.

DEPARTMENT OF STATE,
Washington, November 18, 1911.

To the American diplomatic and consular officers (including consular agents).

GENTLEMEN: In view of the decision of the Attorney General communicated to you in the circular instruction of December 22, 1910,[1] entitled "Expatriation," the following rule (*d*) is adopted as supplementary to rules (*a*), (*b*), and (*c*), prescribed in the circular instruction of April 19, 1907,[2] whereunder the presumption of expatriation arising against a naturalized citizen under the provision of the second paragraph of section 2 of the act of March 2, 1907, may be overcome, namely, by his presenting to a diplomatic or consular officer proof establishing the following fact:

(*d*) That he has made definite arrangements to return immediately to the United States for permanent residence.

When a naturalized citizen against whom the presumption has arisen has failed previously to present evidence sufficient under rules (*a*), (*b*), and (*c*) to overcome it, but applies to a diplomatic or consular officer for a passport, such officer should require positive evidence of some kind, besides the man's bare allegation, first, that he intends to return forthwith to this country, and has actually made his arrangements to do so, and, second, that his intended return is for permanent residence and not merely for a temporary visit. In this connection the disposition of his property and effects, the arrangements in regard to his family, if he has one, and the steps taken to obtain passage to the United States are to be considered; and, whenever practicable, the exhibition of the applicant's steamship ticket should be required.

Under the circumstances mentioned a passport may be issued to the person concerned by a diplomatic officer or consular officer authorized to issue emergency passports if he needs it to enable him to

[1] See Foreign Relations, 1910, p. 3. [2] See Foreign Relations, 1907, p. 3.

leave the country in which he has been residing or to pass, on his way to the United States, through a country in which passports are required. A passport should not be issued merely to facilitate entry into the United States.

An emergency passport issued under the conditions mentioned should be limited to a period sufficient to cover the date of embarkation or period of passage and should recite upon its face the object for which it is issued.

I am, etc.,

P. C. KNOX.

DECLARATION OF FOREIGN-BORN CHILDREN REQUIRED BY SECTION 6, ACT OF MARCH 2, 1907.

File No. 137.11/a.

DEPARTMENT OF STATE,
Washington, March 14, 1911.

To the diplomatic and consular officers of the United States:

GENTLEMEN: Referring to the Department's circular instruction of April 19, 1907,[1] entitled "Children of Citizens Born Abroad," and to section 6 of the act of March 2, 1907, quoted therein, you are informed that the Department has decided that no declarations of "intention to become residents and remain citizens of the United States" required therein have reference to the right of protection rather than citizenship under municipal law, and that such declarations may be made at any time after the minors concerned have reached the age of 18 years and before they take the oath of allegiance to the United States; not necessarily before they reach the age of 19 years.

I am, etc.,

HUNTINGTON WILSON,
Acting Secretary of State.

REGISTRATION OF CITIZENS OF PORTO RICO AND THE PHILIPPINE ISLANDS.

File No. 137.5/4a. No. 80. General Instruction Circular.

DEPARTMENT OF STATE,
Washington, December 9, 1911.

To the American consular officers:

GENTLEMEN: You are informed that persons may be registered in principal consular offices as citizens of Porto Rico or the Philippine Islands, "owing allegiance to the United States," in the books provided for the registration of American citizens, with the necessary changes made therein. As to those persons who are entitled to be considered citizens of Porto Rico, you are referred to the act of Congress of April 12, 1900, establishing a civil government for Porto Rico, which provides as follows:

All inhabitants continuing to reside therein who were Spanish subjects on the 11th day of April, 1899, and then resided in Porto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Porto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the 11th day of April, 1900, in accordance with the provisions of the

[1] See Foreign Relations, 1907, p. 3.

treaty of peace between the United States and Spain entered into on the 11th day of April, 1899.

As to those persons who are entitled to be considered citizens of the Philippine Islands, you are referred to the following provisions of the act of July 1, 1902:

All inhabitants of the Philippine Islands continuing to reside therein, who were Spanish subjects on the 11th day of April, 1899, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris, December 10, 1898. (30 Stat. L., 1754. Van Dyne on Naturalization, c. IV, pp. 309 and 310.)

It has been held that the requirements of the laws quoted as to residence in Porto Rico and the Philippine Islands refer to legal residence and not necessarily bodily presence on the dates stated.

Persons applying for registration as citizens of Porto Rico and the Philippine Islands should be required to produce sworn applications as to birth and residence, accompanied by the best documentary evidence procurable that they were Spanish subjects at the time of the annexation of the islands, and you should require that their statements be supported by affidavits of two credible persons, as in applications for insular passports. Duplicate certificates of registration should not be issued to persons claiming citizenship of Porto Rico or the Philippine Islands until their applications have been approved by the Department.

I am, etc.,

(For Mr. Knox)
WILBUR J. CARR.

RULES TO PREVENT COLLISION OF VESSELS.[1]

DEPARTMENT OF STATE,
Washington, August 3, 1911.

To the diplomatic officers of the United States:

GENTLEMEN: I inclose herewith two copies of Treasury Department Circular No. 230 of June 27, 1911, containing "Rules to Prevent Collisions of Vessels." In the left-hand column are printed the revised international rules, and in the right-hand column the rules for the navigation of rivers, harbors, and inland waters of the United States navigable by seagoing vessels.

One copy of the circular you will communicate to the Government to which you are accredited, inviting its attention particularly to pages 15–17, on which are printed the lines of demarcation within which, after July 31, 1911, the inland rules of the right-hand column are applicable (except on the Red River of the North and rivers flowing into the Gulf of Mexico and their tributaries) and also the lines of demarcation of inland waters of the United States bordering on the Gulf of Mexico, where the pilot rules for western rivers apply.

I am, etc.,

P. C. KNOX.

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[1] This circular supersedes Circular No. 158, Nov. 21, 1907, of the Department of Commerce and Labor. The above circular of the Department of State refers to it as a publication of the Treasury Department, but it is Department Circular No. 230 of the Department of Commerce and Labor, Bureau of Navigation.

ARGENTINA.

MESSAGE OF THE PRESIDENT TO THE CONGRESS.

File No. 835.032/4.

[The message of the President, Dr. Roque Saenz Peña, was read to the Congress May 12, 1911, and transmitted to the Secretary of State May 13 by the chargé d'affaires, Mr. Bliss. The following is the only passage referring to the United States:]

[Translation.]

The conciliatory action taken by the Republic, together with the United States and Brazil, in the conflict between Peru and Ecuador, although not reaching a final settlement, has contributed toward maintaining continental peace by revealing the high purposes that actuate the three mediators.

ARGENTINE FLOUR.

(Under Brazil, Preferential Tariff Concessions, see the memorandum of the Argentine Legation, June 9, 1911; memorandum of the Secretary of State, June 13, 1911; and the dispatch of the American chargé d'affaires at Buenos Aires, June 28, 1911.)

CONSTRUCTION OF THE "MOST-FAVORED-NATION" CLAUSE IN COMMERCIAL TREATIES.

File No. 611.0031/28.

The Argentine Chargé d'Affaires to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Washington, March 6, 1911.

Mr. SECRETARY OF STATE: In compliance with instructions I have received from the minister for foreign relations, I have the honor to apply to your excellency with a request that you please to let me know, provided there be no objection thereto, what is the construction put by your excellency's Government on the "most-favored-nation" clause in the various commercial treaties it has concluded. My Government is specially interested in knowing how this clause is reconciled with the provisions of treaties by which one of the contracting parties grants concessions to the other in return for advantages received.

Thanking your excellency in advance for this information so needful to my Government,

I take [etc.],

JACINTO L. VILLEGAS.

The Acting Secretary of State to the Argentine Chargé d'Affaires.

No. 124.] WASHINGTON, *March 15, 1911.*

SIR: I have the honor to acknowledge the receipt of your note of March 6, 1911, requesting, on behalf of your Government to know [etc.].

In reply, I have the honor to inform you that the uniform position of the Government of the United States for a century past in relation to this matter has been that the most-favored-nation clause respecting the tariff treatment of imports or exports does not apply to privileges which have been conceded by one contracting party to a third country in exchange for valuable and equivalent concessions. It is held by the United States that this clause is intended to prevent the willful preference by one contracting party of the commercial interests of third countries to the detriment of the other contracting party; but it does not require the extension, automatically and gratuitously, between contracting parties to a treaty containing the clause, of the privileges which either has granted to a third country in exchange for reciprocal and equivalent concessions. Under the interpretation invariably placed upon these clauses by the Government of the United States the quality of tariff treatment under the clause means identity of treatment under similar circumstances. For example, the Department of State in an instruction in 1884 to the American minister to Japan approved the position then taken by the Japanese Government to the effect that "if a favor for a specific condition be stipulated with any one nation, no other may enjoy the favor except upon identical or equivalent conditions."

The foregoing is a concise statement of the position of the United States in this matter. For the fuller information of your Government, however, the Department is glad to inform you that its tariff officers have been directed to compile a careful memorandum of the precedents in the diplomatic correspondence of the United States. I shall take pleasure in transmitting to you a copy of this statement as soon as completed.[1]

Accept, etc.,

HUNTINGTON WILSON.

PRESENTATION OF A STATUE OF GEORGE WASHINGTON TO ARGENTINA BY AMERICAN CITIZENS RESIDENT THERE.

File No. 835.415A/99.

The American Chargé d'Affaires to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Buenos Aires, November 30, 1910.

Mr. MINISTER: I have the honor to advise your excellency that in September of last year the United States minister, Mr. Sherrill, advised Dr. V. de la Plaza, then minister for foreign affairs and

[1] See Senate Document 29, 62d Cong., 1st sess.

worship, that the citizens of the United States residing in Argentina were desirous of presenting a statue to this Republic in commemoration of her centennial of independence. Since then the matter has not been treated except by an exchange of notes between your excellency's Department and this legation.

A committee appointed by the citizens of the United States residing in this Republic have now called to inform me that the compatriots they represent desire to express their high appreciation of the advantages which they continue to enjoy under the free and enlightened Government of the Argentine Republic, and see no more fitting way of so doing than to present to your excellency's Government a statue of George Washington in commemoration of the one hundredth anniversary of the independence which Argentina celebrates this year. At the request of this committee, and in the name of the citizens of the United States residing in this Republic, I have the honor to offer through your excellency to His Excellency the President of the Nation a statue of George Washington, in token of their desire to participate in the centennial anniversary of independence by a gift to the Argentine Nation.

I avail [etc.],

ROBERT WOODS BLISS.

The Minister for Foreign Affairs to the American Chargé d'Affaires.

[Translation.]

FOREIGN OFFICE,
Buenos Aires, December 23, 1910.

Mr. CHARGÉ D'AFFAIRES: I have had the pleasure of acquainting myself with your kind note, dated the 30th ultimo, in which, referring to the several communications exchanged on the subject, you say that a commission [etc.].

I had no sooner received the kind communication, which I now answer, than I hastened to bring it to the knowledge of His Excellency the President of the Nation, who has confided to me the pleasant duty of extending to you, in his own name and that of the Argentine people, the expression of the deepest and most hearty appreciation for the proof of sincere friendship which has been given us by the sons of the great North American Nation, who, by their noble work, worthily contribute to the progress of our country.

Begging you kindly to be the interpreter of these sentiments it gives me pleasure to greet you with my distinguished consideration.

ERNESTO BOSCH.

[From the Boletín Oficial of June 28, 1911.]

[Translation—Extract.]

Law No. 8122.—Acceptance of the statue of George Washington.

ARTICLE 1. The statue of George Washington, offered by the citizens of the United States of North America residing in Argentina in commemoration of the first centenary of independence, is hereby accepted.

ARTICLE 2. The Third of February Park, in such part thereof as shall be determined by the Executive, is designated for the erection of said statue.

[Approved by the Executive June 19, 1911.]

[From the speech of Señor Agote in the Argentine Congress.]

[Translation—Extract.]

There are names that are intrinsically potent. What can one say about George Washington which is not already present in the minds of the whole world? Nevertheless to approve this bill in silence might appear discourteous. Therefore, although at the risk of becoming redundant, I will say a few words. * * *

[Here follows an eloquent tribute to Washington.]

George Washington was the first citizen of pure and sane democracy, without hatred or cruel passions, and for all time his statue will be appropriately placed in the Republic of Argentina, the land of liberty in South America.

The law ordains that the statues of celebrated foreigners to whom the Argentine people do honor shall be placed in the drive at Palermo. There this statue will be placed, and with especial propriety when another will be erected there to that famous Argentine, Gen. Faustino Sarmiento, who was an admirer of the North American people and knew how to honor their virtues.

CELEBRATION OF THE HUNDREDTH ANNIVERSARY OF THE BIRTH OF DON DOMINGO FAUSTINO SARMIENTO, PRESIDENT OF ARGENTINA, 1868–1873.

File No. 835.415/B.

The American Chargé d'Affaires to the Secretary of State.

No. 830.] AMERICAN LEGATION,
Buenos Aires, February 20, 1911.

SIR: I have the honor to report that the Argentine Government, in a decree dated the 18th instant, has set aside April 3[1] next for the celebration of the one hundredth anniversary of the birth of Domingo Faustino Sarmiento, late President of this Republic from 1868 to 1873. * * *[2] Because Sarmiento was at one time Argentine minister in the United States and because he initiated in Argentina the present system of education, with the assistance of teachers brought by him from the United States, these details of the solemnity and splendor of the proposed celebration of the one hundredth anniversary of his birth are brought to the Department's attention, that it may be cognizant of the importance this Government attaches to the occasion should the Department think it opportune to express to the Argentine Government sentiments of friendly esteem.

I have, etc.

ROBERT WOODS BLISS.

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[1] In letter 862 (not printed) notice is given of change of date to May 15.
[2] Description of preparations for the celebration.

The Secretary of State to the American Chargé d'Affaires.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 31, 1911.

Communicate the following to the minister for foreign affairs on April 3:

The Government and people of the United States of America send greetings to the Government and people of the Argentine Republic on this centennial of the birth of the great President Sarmiento, who founded the schools that gave ordered liberty to his country and assured the peace which has made her material and intellectual development the marvel of the last half century. We in the United States of America recall and appreciate his broad pan-Americanism and labors in conjunction with our leaders of intellectual thought which contributed so early and efficaciously to establish a genuine mutual understanding and sincere friendship between the countries.

KNOX.

The Minister for Foreign Affairs to the American Chargé d'Affaires.

[Translation.]

FOREIGN OFFICE,
Buenos Aires, May 16, 1911.

Mr. CHARGÉ D'AFFAIRES: In your courteous note of the 13th of the present month,[1] you have been good enough to transcribe for me the text of the message which you have received from the honorable the Secretary of State of your country, transmitting to the Government and the people of Argentina the sentiments of high esteem and sympathy with which the Government and the people of the United States pay respect to the memory of our great President Sarmiento on the occasion of the centenary of his birth.

In the name of the President of the Nation, to whom I have hastened to communicate your dispatch, I now beg that you kindly say to your Government that nothing could be more gratifying on this day of patriotic emotion for the Argentines than the high appreciation which the men of the great sister Republic pay to the memory of the eminent statesman who, inspired by the practices of American democracy, governed this country with wisdom and a just conception of its destinies, helping to cement the mutual understanding and sincere friendship which have characterized our relations, each day increasingly cordial.

Be pleased [etc.],

ERNESTO BOSCH.

The Chargé d'Affaires to the Secretary of State.

[Telegram.]

BUENOS AIRES, *May 18, 1911.*

Yesterday at first session of legislative period Argentine Chamber of Deputies unanimously passed a resolution to engrave message transmitted in your March 31, 10 a. m., on bronze tablet to be placed on tomb of Sarmiento.

BLISS.

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[1] Not printed.

JOINT CORRESPONDENCE OF ARGENTINA, BRAZIL, AND THE UNITED STATES IN REGARD TO THE PERU-ECUADOR BOUNDARY DISPUTE.

(*See* Ecuador.)

VISIT OF THE ARGENTINE SCHOOL SHIP "PRESIDENTE SARMIENTO."

File No. 835.3311/20.

The Argentine Chargé d'Affaires to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Washington, D. C., March 18, 1911.

Mr. SECRETARY OF STATE: In compliance with instructions sent me by the minister of foreign relations, I have the satisfaction of addressing your excellency to offer to you, in the name of my Government, the expression of its sincere acknowledgment of the high honor bestowed on my country by His Excellency President Taft, your excellency, and other members of the Government in attending the luncheon offered on board our school ship *Presidente Sarmiento* on the occasion of its stay at the navy yard in October last. Not only has that friendly demonstration found a responsive echo in Argentina, but it is proof eloquent of the cordial relations which both countries happily cultivate.

Begging your excellency kindly to convey these sentiments to the President,

I have, etc.,

JACINTO L. VILLEGAS.

File No. 835.3311/20.

The Secretary of State to the Argentine Chargé d'Affaires.

No. 125.] DEPARTMENT OF STATE,
Washington, April 1, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 18th ultimo, communicating to the Department your Government's expression of its appreciation of the action of the President and the members of his administration who attended the luncheon given on board the Argentina school ship *Presidente Sarmiento* during its recent visit to Washington, and requesting that these sentiments be made known to the President.

It affords me pleasure to inform you in reply that I have had the honor of conveying the Argentine Government's friendly message to its high destination.

Accept, etc.,

P. C. KNOX.

AUSTRIA-HUNGARY.

EXTRADITION OF JOSEPH AND JACOB GOLDBERG, GRANTED BY AUSTRIA AS AN ACT OF COMITY.

File No. 241.11R74–8.

The Secretary of State to the American Ambassador.

No. 127.] DEPARTMENT OF STATE,
Washington, May 6, 1911.

SIR: I inclose a copy of a letter from the governor of Massachusetts, covering a copy of one from the district attorney for Suffolk County in that State, setting forth the desire of the Massachusetts authorities to obtain the extradition of Joseph and Jacob Goldberg, wanted for housebreaking and larceny.

The Department is informed that the Austrian Government will probably deport the Goldbergs upon the expiration of the sentences imposed upon them for offenses committed in Austria. You are, therefore, instructed to endeavor to obtain and to forward to the Department in due time information as to the time when and country to which they will be deported, in order that appropriate measures may be taken with a view to their extradition to the United States.

I am, etc.,

P. C. KNOX.

The American Chargé d'Affaires to the Secretary of State.

No. 249.] AMERICAN EMBASSY,
Vienna, June 24, 1911.

SIR: With reference to the Department's instruction of May 6, 1911, the embassy's telegram of June 14[1] and the Department's telegraphic reply of the same date[1] in regard to the extradition from Austria of Jacob and Joseph Goldberg, wanted in Boston for housebreaking and larceny, I now have the honor to report as follows:

On receipt of the Department's first instruction in the case the ambassador wrote to the foreign office on May 24, asking, in accordance with the Department's directions, whether—and if so, when and to what country—the Goldbergs were to be deported upon the expiration of the sentences they are now serving at Zloczow and Stanislau, respectively.

On June 13 an official of the foreign office called at the embassy and personally stated that, in view of the dangerous character of these criminals and the efforts of the American authorities to secure

[1] Not printed.

their conviction and punishment, the Austrian Government was ready to grant their extradition without a promise of reciprocal action in similar cases on the part of the United States Government, even though their alleged crime did not fall within the provisions of the treaty of July 3, 1856.

Acting on this statement, the ambassador telegraphed to the Department on June 14 in the above sense and received on the following day the Department's telegraphic reply, to the effect that the Government of the United States accepted, with an expression of appreciation, the offer of the Austrian Government to grant this extradition without promise of reciprocal action in similar cases, which the Government of the United States would be prohibited by its Constitution from making. This decision was duly communicated to the foreign office.

Under date of June 19 the foreign office addressed to the embassy its first official note in the matter, stating merely that, should the Government of the United States attach importance to the extradition of the Goldbergs, it would be possible that the competent court would grant such extradition, to which end a formal requisition should be addressed to the Austrian Government and the necessary papers forwarded.

As the embassy had no authority from the Department to make such a formal demand, I prepared a note to the foreign office, stating that the Government of the United States did attach importance to the extradition of the Goldbergs, and that the extradition papers, which, according to telegraphic advice received and communicated to me by Inspector Lynch, of the Boston police, would arrive in Vienna early in July, would in themselves constitute a formal requisition in the sense desired. This note I took in person to the foreign office, and, having read it to the competent official, was informed that its contents were satisfactory to the foreign office and that such steps as were necessary to insure the continued detention of the Goldbergs would be taken pending the arrival from America of the extradition papers.

I have, etc.,

JOSEPH C. GREW.

TRIAL OF MILITARY FUGITIVES BY MILITARY COURTS IN EXTRADITION CASES.

File No. 211.630R5/5.

The Austro-Hungarian Ambassador to the Secretary of State.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN EMBASSY,
No. 1050.] *Washington, April 11, 1911.*

YOUR EXCELLENCY: With reference to your excellency's valued notes of October 8 and 26, 1910, Nos. 596 and 606,[1] relative to the extradition case of Moritz Ormai, I have the honor to inform your excellency that inasmuch as this man is—as was subsequently ascer-

[1] Not printed.

tained—a military fugitive, he will have to be tried by the military courts at home for the extraditable offense. Ormai, however, will not be prosecuted on the charge of desertion. Begging your excellency to take notice of the foregoing and kindly to acquaint the United States commissioner at Cleveland therewith, I renew, etc.,

HENGELMÜLLER.

The Secretary of State to the Austro-Hungarian Ambassador.

No. 661.] DEPARTMENT OF STATE,
Washington, April 17, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 11th instant, in which, with reference to the Department's notes of October 8 and October 26 last, respectively, in the matter of the extradition of one Moritz Ormai, charged with forgery in Austria-Hungary, you advise me that, inasmuch as Ormai is a military fugitive, he must be tried by the military courts. In reply I have the honor to say that the Department understands from your note that Ormai will not be prosecuted on the charge of desertion, but will be tried for the offense for which this Government granted his surrender, namely, forgery. It is assumed that, if the occasion should arise in the future, the Government of Austria-Hungary will offer no objection to the trial before the military courts of the United States of a fugitive surrendered by that Government to the Government of the United States.

Accept, etc.,

P. C. KNOX.

The Austro-Hungarian Ambassador to the Secretary State.

[Translation.]

No. 1260.] AUSTRO-HUNGARIAN EMBASSY,
Washington, May 2, 1911.

YOUR EXCELLENCY: I have received your excellency's communication No. 661 of the 17th instant, relating to the Moritz Ormai extradition case, and I have the honor, by authorization, to state in reference to the final sentence thereof that the Austrian and Hungarian Government will also agree to the surrender, if a case arises, of fugitives extradited on account of crimes to the regular American military courts provided the latter have jurisdiction according to the American regulations to try the parties concerned.

I avail, etc.,

HENGELMÜLLER.

BELGIUM.

RECOGNITION BY BELGIUM OF AMERICAN VICE AND DEPUTY CONSUL GENERAL AT BOMA, KONGO.

File No. 125.2173/8.

The American Minister to the Secretary of State.

AMERICAN LEGATION,
No. 115.] *Brussells, March 2, 1911.*

SIR: I have the honor to report that complying with the Department's instruction No. 80 of December 3 last,[1] I duly applied to the foreign office for the recognition of Mr. Charles C. Broy as American vice and deputy consul general at Boma, Congo. In reply I received notice of the formal recognition of Mr. Broy in the capacity named. I herewith transmit a copy of a note[1] from the minister for foreign affairs which accompanied the authorization.

I have, etc.,
CHARLES PAGE BRYAN.

The Acting Secretary of State to the American Minister.

DEPARTMENT OF STATE,
No. 89.] *Washington, March 22, 1911.*

SIR: The Department is in receipt of your No. 115 of the 2d instant, relative to the recognition by the Belgian Government of Mr. Charles C. Broy as American vice and deputy consul general at Boma, and the present attitude of the United States toward the Congo.

In instructing you to apply to the Belgian foreign office for the recognition of Mr. Broy, the Department was simply carrying out the rule and custom of asking consular recognition by the de facto authorities, it not being a question of de jure determination.

I am, etc.,
HUNTINGTON WILSON.

MERGING OF THE CONSULAR REPRESENTATION OF THE KONGO STATE WITH THE CONSULAR REPRESENTATION OF BELGIUM.

File No. 702.5511–30.

The Belgian Minister to the Secretary of State.

BELGIAN LEGATION,
No. 64.] *Washington, January 23, 1911.*

SIR: I have the honor to inform you that the consular representation of the Congo State having been merged with the consular representation of Belgium, the functions of the consul general of the

[1] Not printed.

Congo to the United States, formerly held by Mr. James Gustavus Whiteley, have been discontinued and that the affairs that were handled by that consulate general are now and will hereafter be conducted through the consular representatives of Belgium in the United States.

Accept, etc.,

CT. CONRAD DE BUISSERET.

MARITIME LAW — SALVAGE — COLLISIONS — THIRD INTERNATIONAL CONFERENCE, SESSION OF 1910.[1]

File No. 585.7A2/262.

The American Delegates to the Third International Conference on Maritime Law to the Secretary of State.

RICHMOND, VA., *February 14, 1911.*

SIR: I have the honor to inclose the report of the American delegates upon the convention relating to salvage adopted by the Third International Conference on Maritime Law on September 23, 1910.[2]

I have, etc.,

A. J. MONTAGUE.

[Inclosure.]

REPORT OF THE AMERICAN DELEGATION ON THE CONVENTION RELATING TO SALVAGE.

To the honorable the Secretary of State:

The delegates of the United States designated to attend the reconvening of the Third International Conference on Maritime Law at Brussels on September 12, 1910, have the honor to report:

In accordance with our instructions from the Department of State, we attended and participated in the sessions and deliberations of the reconvened conference. Mr. Gaston de Leval, the Belgian advocate who assisted us at the last session, again aided us as counsel, and we desire to express our appreciation of his services.

At the opening of the conference we stated that we were authorized to sign the convention relating to collisions with certain reservations and that we were authorized to sign without reservations the convention relating to salvage. At the same time we stated that under the Constitution of the United States of America no treaty can become effective until approved by the Senate.

On September 23, 1910, we signed the convention relating to the law of salvage, making one reservation as follows:

> The Government of the United States of America declares that it reserves the right to adhere to said convention and to denounce it for the insular possessions of the United States of America.

Annexed hereto is a translation of the convention, which is identical with that adopted by the British delegates.[3] No official translation of the convention was made or authorized by the conference.

The convention on salvage makes few changes in our own or the British law except that article 5 provides that "remuneration is due notwithstanding that the salvage services have been rendered by or to vessels belonging to the same owner." This provision will permit the officers and crew of a salving vessel to

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[1] See Foreign Relations, 1910, p. 105, for the instructions of the Secretary of State to the American delegation.

[2] For date of original report see, below, the letter of Charles C. Burlingham, transmitting the Report on Collisions.

[3] The translation printed below contains some modifications recommended by Mr. Martin, one of the translators of the Department of State.

recover for their services notwithstanding identity of ownership. It will also affect the right of subrogation of underwriters. The provision would, of course, apply only in a limited number of cases; but we deemed the provision just and unobjectionable.

Article 9 contains a reasonable provision for salvors of human life, limiting the recovery, however, to cases where property also has been salved.

Article 10 prescribes a limitation period of two years for bringing suits for salvage.

Awaiting your further instructions, we have the honor to be, sir,

Your obedient servants,

WALTER C. NOYES.
CHARLES C. BURLINGHAM.
EDWIN W. SMITH.
A. J. MONTAGUE.

[Not dated.]

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES OF LAW IN REGARD TO ASSISTANCE AND SALVAGE AT SEA.

[Translation from French.]

ARTICLE 1.

Assistance and salvage of seagoing vessels in danger of any things on board, of freight and passage money, and also services of the same nature rendered to each other by seagoing vessels and vessels of inland navigation are subject to the following provisions, without any distinction being drawn between the two kinds of service and in whatever waters the services have been rendered.

ARTICLE 2.

Every act of assistance or salvage which has had a useful result gives a right to equitable remuneration.

No remuneration is due if the services rendered have no beneficial result.

In no case shall the sum to be paid exceed the value of the property salved.

ARTICLE 3.

Persons who have taken part in salvage operations, notwithstanding the express and reasonable prohibition on the part of the vessel to which services were rendered, have no right to any remuneration.

ARTICLE 4.

A tug has no right to remuneration for assistance to or salvage of the vessel she is towing or of the vessel's cargo except where she has rendered exceptional services which can not be considered as rendered in fulfilment of the contract of towage.

ARTICLE 5.

Remuneration is due notwithstanding that the salvage services have been rendered by or to vessels belonging to the same owner.

ARTICLE 6.

The amount of remuneration is fixed by agreement between the parties and, failing agreement, by the court.

The proportion in which the remuneration is to be distributed among the salvors is fixed in the same manner.

The apportionment of the remuneration among the owner, master, and other persons in the service of each salving vessel is determined by the law of the vessel's flag.

ARTICLE 7.

Every agreement as to assistance or salvage entered into at the moment and under the influence of danger can, at the request of either party, be annulled or modified by the court if it considers that the conditions agreed upon are not equitable.

In all cases, when it is proved that the consent of one of the parties is vitiated by fraud or concealment, or when the remuneration is, in proportion to the serv-

ices rendered, in an excessive degree too large or too small, the agreement may be annulled or modified by the court at the request of the party affected.

ARTICLE 8.

The remuneration is fixed by the court, according to the circumstances of each case, on the basis of the following considerations: (*a*) First, the measure of success obtained, the efforts and the deserts of the salvors, the danger run by the salved vessel, by her passengers, crew, and cargo, by the salvors and by the salving vessel, the time expended, the expenses incurred and losses suffered, and the risks of liability and other risks run by the salvors, and also the value of the property exposed to such risks, due regard being had, the case arising, to the special adaptation of the salvor's vessel; (*b*) second, the value of the property salved.

The same provisions apply to the apportionment provided for by the second paragraph of article 6.

The court may reduce or deny remuneration if it appears that the salvors have by their fault rendered the salvage or assistance necessary, or have been guilty of theft, receiving stolen goods, or other acts of fraud.

ARTICLE 9.

No remuneration is due from the persons whose lives are saved, but nothing in this article shall affect the provisions of the national laws on this subject.

Salvors of human life who have taken part in the services rendered on the occasion of the accident, giving rise to salvage or assistance, are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo, and accessories.

ARTICLE 10.

A salvage action is barred after an interval of two years from the day on which the operations of assistance or salvage are terminated.

The grounds upon which the said period of limitation may be suspended or interrupted are determined by the law of the court where the case is tried.

The high contracting parties reserve to themselves the right to provide by legislation in their respective countries that the said periods shall be extended in cases where it has not been possible to arrest the vessel assisted or salved in the territorial waters of the State in which the plaintiff has his domicile or principal place of business.

ARTICLE 11.

Every master is bound, so far as he can do so without serious danger to his vessel, her crew, and passengers, to render assistance to everybody, even though an enemy, found at sea in danger of being lost.

The owner of the vessel incurs no liability by reason of contravention of the foregoing provision.

ARTICLE 12.

The high contracting parties whose legislation does not forbid infringements of the preceding article bind themselves to take or to propose to their respective legislatures the measures necessary for the prevention of such infringements.

The high contracting parties will communicate to one another, as soon as possible, the laws or regulations which have already been or may be hereafter promulgated in their States for the purpose of giving effect to the above undertakings.

ARTICLE 13.

The convention does not affect the provisions of national laws or international treaties as regards the organization of services of assistance and salvage by or under the control of public authorities, nor, in particular, does it affect such laws or treaties on the subject of the salvage of fishing gear.

ARTICLE 14.

This convention does not apply to ships of war or to Government ships appropriated exclusively to a public service.

ARTICLE 15.

The provisions of this convention shall be applied as regards all persons interested when either the assisting or salving vessel or the vessel assisted or salved

belongs to one of the contracting States, and in any other cases for which the national laws provide.

Provided always, that:

1. As regards persons interested who belong to a noncontracting State the application of said provisions may be made subject by each of the contracting States to the condition of reciprocity.

2. Where all the persons interested belong to the same State as the court trying the case, the provisions of the national law and not of the convention are applicable.

3. Without prejudice to any wider provisions of any national laws, article 11 only applies as between vessels belonging to the States of the high contracting parties.

ARTICLE 16.

Any one of the high contracting parties shall have the right three years after this convention comes into force to call for a fresh conference with a view to seeking such ameliorations as may be brought therein, and particularly with a view to extending, if possible, the sphere of its application.

Any power exercising this right must notify its intention to the other powers, through the Belgian Government, which will see to the convening of the conference within six months.

ARTICLE 17.

States which have not signed the convention are allowed to adhere to it on request. Such adhesion shall be notified through the diplomatic channel to the Belgian Government and by the latter to each of the other Governments. It shall become effective one month after the sending of the notification by the Belgian Government.

ARTICLE 18.

The convention shall be ratified.

After an interval of at most one year from the day on which the convention is signed, the Belgian Government shall place itself in communication with the Governments of the high contracting parties which have declared themselves prepared to ratify the convention with a view to deciding whether it is expedient to put into force.

The ratifications shall, if so decided, be deposited forthwith at Brussels, and the convention shall come into force a month afterwards.

The protocol shall remain open another year in favor of the States represented at the Brussels Conference. After this interval they can only adhere to it on conforming to the provisions of article 17.

ARTICLE 19.

In the case of one or other of the high contracting parties denouncing this convention, such denunciation should not take effect until a year after the day on which it has been notified to the Belgian Government, and the convention would remain in force as between the other contracting parties.

In witness whereof the plenipotentiaries of the respective high contracting parties have signed this convention and have affixed their seals thereto.

Done at Brussels, in a single copy, the 23d September, 1910.

File No. 585.7A2/266.

The American delegates to the Third International Conference on Maritime Law to the Secretary of State.

NEW YORK, *February 25,*[1] *1911.*

SIR: I have the honor to send herewith the report of the American delegates to the Third International Conference on Maritime Law with respect to the Convention on the Law of Collisions. This is in lieu of our original report with regard to this convention [2] and that with respect to the law on salvage,[2] which was submitted November

[1] This letter was evidently written four days before the signing of the report (inclosure below) was completed, on the 29th.

[2] Not printed.

5, 1910. At the request of the Department we have now made separate reports with regard to these two conventions. We submitted that as to the law of salvage a few days ago.

I am [etc.],

CHARLES C. BURLINGHAM.

[Inclosure.]

REPORT OF THE AMERICAN DELEGATION ON THE CONVENTION RELATING TO COLLISIONS.

To the honorable the SECRETARY OF STATE:

The delegates of the United States designated to attend the reconvening of the Third International Conference on Maritime Law at Brussels on September 12, 1910, have the honor to report:

In accordance with our instructions from the Department of State, we attended and participated in the sessions and deliberations of the reconvened conference, which were attended by the representatives of 26 nations. Mr. Gaston de Leval, the Belgian advocate who assisted us at the last session, again gave us valuable aid as counsel.

At the opening of the conference we stated that we were authorized to sign the convention relating to collisions, with certain reservations. Later we presented to the conference certain observations relating to the proposed convention on collisions, a translation of which observations is attached to this report, marked Appendix B. Subsequently we made a formal statement of the reservations subject to which we were prepared to sign the conventions. These reservations are as follows:

The delegates of the United States of America to the International Conference on Maritime Law deem it their duty to demand that entry be made in the protocol relating to the international conventions for the unification of certain rules in the matter of collisions, that said delegates sign said convention in the name of the United States only under the following reservations:

1. The provisions of article 4 of said convention shall not affect the operation or enforcement of the act of Congress entitled "An act relating to navigation of vessels," etc., approved February 13, 1893, commonly known as the Harter Act.

2. The provisions of articles 1 and 4 of said convention shall not create in the United States a right of action for damages caused by death until such provisions shall have been supported by appropriate action of the Congress of the United States.

3. The provisions of article 6 of said convention shall not in any way affect legal presumptions created by the laws of the United States.

4. The provisions of said convention with respect to fault and damages, as well as remedies, shall be applicable in the United States only in the courts of admiralty and maritime jurisdiction.

On September 23, 1910, we signed the convention, subject to the foregoing reservations and subject also to the reservation which we made with regard to the convention on salvage, as follows:

The Government of the United States of America declares that it reserves the right to adhere to said conventions and to denounce them for the insular possessions of the United States of America.

Annexed hereto is a translation of the convention, which is identical with that adopted by the British delegates.[1] No official translation of the convention was made or authorized by the conference.

The most important change in our law made by the convention on collisions is the substitution of several liability in proportion to the gravity of fault for joint liability to be shared equally by the *tort feasors* as between themselves. Article 4 provides that—

If two or more vessels are in fault, the liability of each vessel is in proportion to the degree of the faults respectively committed, provided that, having regard to the circumstances, it is not possible to establish the degree of the respective faults, or, if it appears that the faults are equal, the liability is apportioned equally.

This article provides further that damages caused to cargoes or property of crews, passengers, or other persons on board a vessel are to be borne by the vessels in fault "in the above proportions."

In cases of mutual fault our courts of admiralty divide the damages arbitrarily in equal parts, the vessel slightly at fault and the vessel grossly at fault bearing the same burden.

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[1] The translation printed below contains some modifications recommended by Mr. Martin, one of the translators of the Department of State.

In our report to the Secretary of State of the proceedings of the conference in 1909 we stated at length our reasons for recommending the adoption of a provision which apportions responsibility according to the degree of liability. We were convinced that proportional liability was not only more rational than our present rule, but was also thoroughly practicable. We expressly limited the effect of the new rule, however, so that it should be applied in the United States not in the common law courts, but only in courts of admiralty and maritime jurisdiction.

The extension of the rule of proportional liability to cargo damage undoubtedly limits the existing rights of cargo owners, who, under our present law in case of a collision due to the fault of two vessels, may recover the whole of their damages from the noncarrying vessel even though the carrying vessel is protected from liability by the Harter Act. Cargo owners are thus able to take advantage of an anomalous situation. If a cargo is lost or damaged through a collision resulting from a fault or error in navigation or in the management of a carrying vessel, the owner of which has used due diligence to make her seaworthy, the Harter Act deprives the cargo owner of any remedy. If the loss results from the negligence of the carrying vessel, combined with the negligence of a noncarrying vessel, the cargo owner may collect his whole damage from the noncarrying vessel, which pays not only for its own negligence, but for that of the carrying vessel, obtaining, however, under the decisions of the Supreme Court, notwithstanding the Harter Act, contribution from the carrier. The result is that if a carrying vessel does all the damage it pays nothing; if it does part of the damage it pays one-half.

As the Harter Act, which we assume defines the policy of the United States, relieves shipowners from direct responsibility for injury to cargo, it seems logical that shopowners should be relieved from indirect responsibility.

Doubt having arisen as to the effect of articles 4 and 10 of the convention on the Harter Act, we made the reservation numbered 1. It was impossible to preserve the rule of our courts making the noncarrying vessel liable in the first instance for the whole amount of the damage caused by the cargo. Such a rule would contravene the underlying principles of the convention.

The second reservation, which provides that "Articles 1 and 4 of the convention shall not create in the United States a right of action for damages caused by death until such provision shall have been supplemented by appropriate action of the Congress of the United States," was necessary, as Congress has not yet legislated on this subject, and we deemed it our duty not to seek to establish a remedy by treaty when the matter was already before Congress for action.

The third provision, with regard to presumptions created by the laws of the United States, is not of great importance, as there are few statutory or other legal presumptions relating to collisions in our law. There are many such presumptions, however, in the laws of other countries, and it was for that reason that the conference adopted article 6, which provides that "all legal presumptions of fault in regard to liability for collision are abolished."

Article 5, which establishes liability in case of collision caused by the fault of a pilot, even though compulsory, brings the general law into harmony with our own.

Article 7 prescribes a limitation period of two years for bringing suits for collision, which we deemed a reasonable provision.

Awaiting your further instructions, we have the honor to be, sir,

Your obedient servants,

WALTER C. NOYES.
CHARLES C. BURLINGHAM.
EDWIN W. SMITH.
A. J. MONTAGUE.

FEBRUARY *29, 1911.*

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES IN REGARD TO COLLISIONS.

[Translation.]

ARTICLE 1.

Where a collision occurs between seagoing vessels or between seagoing vessels and vessels of inland navigation the compensation due for damages caused to the vessels, or to any things or persons on board thereof, shall be settled in accordance with the following provisions, in whatever waters the collision takes place.

ARTICLE 2.

If the collision is accidental, if it is caused by *force majeure*, or if the cause of the collision is left in doubt, the damages are borne by those who have suffered them.

This provision is applicable where the vessels, or any one of them, are moored at the time of the accident.

ARTICLE 3.

If the collision is caused by the fault of one of the vessels, liability to make good the damages attaches to the one which has committed the fault.

ARTICLE 4.

If there is mutual fault, the liability of each vessel is in proportion to the gravity of the faults respectively committed; but if, according to the circumstances, the proportion can not be established, or if it appears that the faults are equal, the liability is apportioned equally.

The damages caused either to the vessels, or to their cargoes, or to the effects or other property of the crews, passengers, or other persons on board, are borne by the vessels in fault in the above proportions without joint liability toward third parties.

In respect of damage caused by death or personal injury, the vessels in fault are jointly liable to third parties without prejudice, however, to the right of contribution belonging to the vessel which has paid a larger part than that which in accordance with the provisions of the first paragraph of this article she ought ultimately to bear.

It is left to the law of each country to determine, as regards such right to obtain contribution, the meaning and effect of any contract or provision of law which limits the liability of the owners of a vessel toward persons on board.

ARTICLE 5.

The liability imposed by the preceding articles attaches, in cases where the collision is caused by the fault of a pilot, even when pilotage is compulsory.

ARTICLE 6.

The right of action for the recovery of damages resulting from a collision is not conditional upon the entering of a protest or the fulfillment of any other special formality.

There are no legal presumptions of fault so far as responsibility for the collision is concerned.

ARTICLE 7.

Actions for the recovery of damages are barred after an interval of two years from the date of the accident.

The period within which the right of contribution allowed by paragraph 3 of article 4 must be exercised is one year. This limitation runs only from the date of payment.

The grounds upon which the said periods of limitation may be suspended or interrupted are determined by the law of the court where the case is tried.

The high contracting parties reserve to themselves the right to provide by legislation in their respective countries that the said periods shall be extended in cases where it has not been possible to arrest the defendant vessel in the territorial waters of the State in which the plaintiff has his domicile or his principal place of business.

ARTICLE 8.

After a collision, the master of each of the vessels in collision is bound, so far as he can do so without serious danger to his vessel, her crew, and her passengers, to render assistance to the other vessel, her crew, and her passengers.

He is likewise bound, so far as possible, to make known the name of his own vessel and the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

A breach of the above provisions does not impose any liability on the owner of a vessel.

ARTICLE 9.

The high contracting parties whose legislation does not forbid infringements of the preceding article bind themselves to take or to propose to their respective legislatures the measures necessary for the prevention of such infringements.

The high contracting parties will communicate to one another, as soon as possible, the laws and regulations which have already been or may be hereafter promulgated in their States for giving effect to the above undertaking.

ARTICLE 10.

Under reservation of the conventions which may subsequently be made, the provisions of this convention do not affect in any way the law in force in each country with regard to the limitation of shipowner's liability, nor do they affect the legal obligations arising from contracts of carriage or from any other contract.

ARTICLE 11.

This convention does not apply to ships of war or to Government ships appropriated exclusively to a public service.

ARTICLE 12.

The provisions of this convention shall be applied as regards all persons interested when all the vessels concerned in any action belong to contracting States and in any other cases for which the national laws provide.

Provided always that:

1. As regards persons interested who belong to a noncontracting State, the application of the above provisions may be made conditional upon reciprocity.

2. Where all the persons interested belong to the same State as the court trying the case, the provisions of the national law and not of the convention are applicable.

ARTICLE 13.

This convention extends to the making good of damages which a vessel has caused to another vessel or to goods or persons on board either vessel, either by the execution or nonexecution of a maneuver or by the nonobservance of the regulations even if no collision has actually taken place.

ARTICLE 14.

Any one of the high contracting parties shall have the right, three years after this convention comes into force, to call for a fresh conference, with a view to seeking such ameliorations as may be brought therein, and particularly with a view to extending, if possible, the sphere of its application.

Any power exercising this right must notify its intention to the other powers through the Belgian Government, which will see to the convening of the conference within six months.

ARTICLE 15.

States which have not signed this convention are allowed to adhere to it on request. Such adhesion shall be notified through the diplomatic channel to the Belgian Government, and by that Government to each of the other Governments; it shall become effective one month after the sending of the notification by the Belgian Government.

ARTICLE 16.

This convention shall be ratified.

After an interval of at most one year from the day on which the convention is signed the Belgian Government shall place itself in communication with the Governments of the high contracting parties which have declared themselves prepared to ratify it, with a view to deciding whether it is expedient to put it into force.

The ratifications shall, if so decided, be deposited forthwith at Brussels, and the convention shall come into force a month afterwards.

The protocol shall remain open another year in favor of the States represented at the Brussels Conference. After this interval they can only adhere to it on conforming to the provisions of article 15.

ARTICLE 17.

In the case of one or other of the high contracting parties denouncing the convention, such denunciation shall not take effect until a year after the day on which it has been notified to the Belgian Government, and the convention shall remain in force as between the other contracting parties.

ADDITIONAL ARTICLE.

Notwithstanding anything in the provisions of article 16, it is agreed that it shall not be obligatory to give effect to the provisions of article 5, establishing liability in cases where the collision is caused by the fault of a compulsory pilot, until the high contracting parties shall have arrived at an agreement on the subject of the limitation of liability of shipowners.

In witness whereof the plenipotentiaries of the several high contracting parties have signed this convention and have affixed their seals hereto.

Drawn up at Brussels, in a single copy, the 23d September, 1910.

APPENDIX A.

SIGNATURE PROTOCOL, EXTENDING CONVENTIONS TO COLONIES.

[Translation.]

At the moment of proceeding to sign the conventions for the rendering uniform of certain rules in the matter of collisions and of maritime assistance and salvage, concluded on this date, the undersigned plenipotentiaries have agreed to the following:

The provisions of said conventions will be applicable to the colonies and possessions of the contracting powers, subject to the following reservations:

I. The German Government declares that it reserves the right to decide with regard to the colonies. It reserves the right, with respect to each of them separately, to accede to and denounce the conventions.

II. The Danish Government declares that it reserves the right to accede to and denounce said conventions with respect to Iceland and the Danish colonies and possessions separately.

III. The Government of the United States of America declares that it reserves the right to accede to and denounce said conventions with respect to the insular possessions of the United States of America.

IV. The Government of His Britannic Majesty declares that it reserves the right to accede to and denounce said conventions with respect to each of the British colonies, protectorates, and territories separately, as well as with respect to the island of Cyprus.

V. The Italian Government reserves the right to accede subsequently to the conventions with respect to the Italian dependencies and colonies.

VI. The Government of the Netherlands reserves the right to accede subsequently to the conventions with respect to the Dutch colonies and possessions.

VII. The Portuguese Government declares that it reserves the right to accede subsequently to the conventions with respect to the Portuguese colonies.

These accessions may be notified either by means of a general declaration comprising all the colonies and possessions or by special declarations. With regard to the accessions and denunciations, the procedure prescribed in the two conventions of this date will be followed if necessary. It is understood, however, that the said accessions may also be embodied in the record of the ratifications.

In witness whereof the undersigned plenipotentiaries have drawn up the present protocol, which shall have the same force and value as if its provisions were inserted in the text of the conventions to which they relate.

Done at Brussels, in a single copy, September 23, 1910.

(Signatures of delegates.)

APPENDIX B.

INTERNATIONAL CONFERENCE ON MARITIME LAW.

[Sessions of September, 1910.]

OBSERVATIONS PRESENTED BY THE DELEGATION OF THE UNITED STATES OF AMERICA.

I.—*General remarks.*

Under the Constitution of the United States of America no treaty can become effective until approved by the Senate.

Any convention to which the American delegation may give its adherence must, therefore, before becoming effective, be approved by that body.

II.—*The convention relating to the law of collision.*

The delegation of the United States is prepared to adhere to this convention, subject to certain reservations to be inserted in the protocol, which have already been stated at the first session of September 12, 1910.

Nevertheless, before signing the convention the delegation desires to have certain obscurities in certain articles corrected.

Articles 1 and 4. If the provisions of these articles are to be interpreted as creating a right of action for loss of life, the delegation of the United States will be compelled to make certain reservations.

At present there is no statute in the United States which gives a right of action for loss of life on the high seas, but a bill on this subject is now pending in the Congress of the United States and has received substantial support.

The subject, it seems to us, is too important to depend upon an inferential reference contained in a convention on collisions, and it would be better to deal with it in a comprehensive statute stating the persons entitled to sue, as well as the amount of the recovery.

For these reasons the delegation, on signing this convention, will make a reservation that articles 1 and 4 shall not create in the United States a right of action for damage caused by death unless and until this convention shall be supplemented by an act of the Congress of the United States.

Although article 4 may be interpreted as merely fixing the apportionment of damages, there is a ground for the contention that it creates a liability for proportional damages against a carrying ship in favor of a cargo owner, notwithstanding the provisions of the national law.

As an act of Congress known as the Harter Act indicates, the policy of the United States is that a shipowner who has used due diligence to make his vessel seaworthy is relieved from all liability to cargo by reason of faults in navigation, and as the effect of this interpretation of article 4 might be to nullify the operation of such act, the delegates have been instructed to make a reservation that said article 4 shall not affect the Harter Act.

Article 6. The delegation is compelled to make a reservation that this article shall not affect legal presumptions created by the laws of the United States.

Article 10. The language of this article appears to us obscure.

The article states that "the provisions of said article do not affect the nature or extent of shipowner's liability as regulated in each country." Yet article 4 of the convention in particular does affect both the nature and the extent of shipowner's liability.

It affects the mutual rights of joint *tort feasors.*

It denies solidarity of liability in certain cases, and it may be thought to create a right of action for death.

If the provisions of article 10 are intended to preserve unaffected the national laws prescribing systems of limitation of shipowner's liability until a convention on that subject is adopted, in that case the delegation of the United States think that the article should be amended to this effect.

Article 12. It is the opinion of the delegation that in order to avoid all obscurity and erroneous interpretation, the first paragraph of this article should be amended so as to provide that the vessels in suit shall belong to different high contracting parties.

In addition to the reservations above stated, the delegates of the United States have been instructed to declare that the provisions of the present convention with respect to damages and remedies shall be applicable in the United States only in the courts of admiralty and maritime jurisdiction.

III.—*Convention relating to salvage.*

The delegation of the United States is prepared to adhere to the convention for the unification of certain rules in the matter of maritime assistance and salvage.

IV.—*Convention concerning limitation of shipowner's liability.*

As the delegation of the United States stated at the last session of the conference, it is impossible for it to regard with favor the provisions giving the shipowner the option of abandoning his vessel or paying a fixed sum. This proposition does not appear to be in any sense a compromise between the two existing systems, but is altogether in favor of the shipowner, and in our opinion the American system already goes far enough in that direction. The delegation has been instructed to urge strongly that the option of paying a fixed sum be omitted from the convention.

On the other hand, the provisions of this convention are widely at variance with the American system of limiting liability.

The convention applies only to a limited number of cases, while the American system embraces claims founded upon contract as well as upon tort.

The limitation of liability statutes of the United States have been in force many years and have given general satisfaction. The treaty-making power is not likely to adopt a system of limitation of liability which affects only citizens belonging to different States, while the rights of American citizens among themselves are dependent upon national laws. It is manifest that two different systems should not be in force in the United States, and the delegates would be reluctant to recommend the adoption of a convention on limitation of liability unless they felt that there was a reasonable probability of its being followed by acts of Congress establishing a uniform system. Such a result they regard as improbable, unless the proposed convention should be brought more nearly into harmony with the present American law.

V.—*Convention on hypothecations and maritime liens.*

This plan of a convention omits several liens long established in the United States and generally regarded as of great importance.

Among these the delegation of the United States mentions the following liens:

1. A lien in favor of passengers or cargo against the carrying vessel for damage to baggage or merchandise.

In the opinion of the delegates, it is highly desirable to maintain this lien. In fact, neither the Harter Act nor the negligence clauses in bills of lading afford a defense in cases of "loss by damage arising from negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any and all lawful merchandise or property," or in cases where unseaworthiness is established.

2. A lien for violations of contract of affreightment.

3. A lien for towage, wharfage, stevedores' services, etc.

The lien for towage is especially important for the United States, for in that country towing for great distances is a frequent occurrence; for example, from ports in the Gulf of Mexico to Europe, and between ports of the Atlantic and Pacific coasts.

4. A lien for injuries sustained by passengers and crew.

5. A lien for repairs and supplies without the limitation fixed by paragraph 4 of article 3 of the plan.

The delegation feels itself especially bound by the recent declaration of the policy of the United States in an act of Congress approved June 23, 1910, which gives a lien to all persons making repairs or furnishing supplies or other necessaries to a vessel, whether domestic or foreign, on the order of the owner of the vessel without the necessity of alleging or proving that credit has been given to the vessel.

As this legislation is the result of long and thorough discussion in the Congress during several years, it must be understood that a new provision which departs in any serious respect from the provisions of the law of June 23, 1910, is not likely to be approved by the American Government.

6. A lien for torts other than those arising out of collision.

APPENDIX C.

REPORT OF MR. FRANCK, SECRETARY OF THE INTERNATIONAL MARITIME CONFERENCE AT BRUSSELS.

[Translation.]

It is not without a feeling of deep satisfaction that the subcommittee intrusted with making a final examination of the convention relating to collisions and of the convention relating to maritime assistance and salvage has the honor to present entirely favorable conclusions to the conference. There could not, at any rate, have been any doubt about this result after the sentiments expressed at a general meeting and in view of the character of the observations made, which were essentially inspired by a desire to improve, if possible, the wording prepared during the third session. While the careful examination made by the subcommittee suggested to it the suitability of making certain corrections in line with these observations, which had been prepared with great care, it also showed at the same time that no important change affecting the substance itself was necessary.

The fact that almost all the powers had accepted the text as framed was also calculated to imbue the subcommittee with a legitimate and unanimous desire to make changes in the wording only with the greatest caution.

Under these circumstances the report must confine itself to the modest rôle assigned to it by the last labors of the subcommittee, it being unnecessary to resume the comments already set forth in the previous reports, and to which reference only can be made. Therefore in the following observations the only articles in question will be those which have been modified or in regard to which the subcommittee has desired that some additional observations be embodied in the report.

INTERNATIONAL CONVENTION FOR THE PURPOSE OF RENDERING UNIFORM CERTAIN RULES IN THE MATTER OF COLLISIONS.

Title.—With regard to the title, the question was raised whether, by reason of the nautical accidents classed with collisions by article 13, it was not suitable to modify the title of the convention. The subcommittee deemed it sufficient that the title should indicate the essential object, and it therefore proposes to maintain the denomination, International Convention for the Purpose of Rendering Uniform Certain Rules in the Matter of Collisions.

Article 1.—Article 1 was worded as follows:

In case of collision occurring between seagoing vessels or between seagoing vessels and boats engaged in inland navigation, the reparation of the damages caused the vessels and the things or persons on board is made subject to the following provisions, without regard to the waters where the collision has occurred.

Observations.—One delegation asked whether it was not necessary to state that the provisions of the conventions extend to the damages arising from loss of rent, of freight, and of passage money, as well as to demurrage and similar sources of injury. This solution is evidently in conformity with the idea of all the delegations and with the preparatory labors: Material injuries, idleness or demurrage, industrial disturbance, loss of interest, extraordinary expenses, and everything which may be considered as a real consequence of the collision should be comprised within the liability. The text by no means restricts the latter to the immediate consequences. The convention already expressed this idea, but in order to leave no doubt its terms have been slightly modified. The words "the reparation of damages caused the vessels and the things or persons on board" have been replaced by the words "the indemnities due by reason of the damages caused the vessels," etc., in order to establish the right to a complete reparation in the sense mentioned above.

2. It is also asked whether it would not be suitable to stipulate that the provisions of the convention would be applicable only on the high sea and in rivers at high tide. This proposition did not meet the approval of the subcommittee. In fact, it is in contradiction with the very principle adopted before. There have really been given numerous examples of navigable waters which do not undergo the influence of the tide and which are nevertheless among the routes regularly frequented by seagoing vessels. The text of the article has therefore

been maintained with regard to this point. Under these circumstances the final text of article 1 would become—

In case of collision occurring between seagoing vessels or between seagoing vessels and boats engaged in inland navigation, the indemnities due by reason of the damages caused the vessels and the things or persons on board shall be regulated in accordance with the following provisions, without regard to the waters where the collision has occurred.

Article 3.—This article was worded as follows:

If the collision is caused through the fault of one of the vessels, the reparation of the damage shall be incumbent on the one which has committed the fault.

Owing to a material error, the word "damage" appears here in the singular, while it is used in the plural throughout the convention. This error has been corrected and the final text would read:

If the collision is caused through the fault of one of the vessels, the reparation of the damages shall devolve on the one which has committed the fault.

Article 4.—The text adopted is worded as follows:

If there is a common fault the liability of each of the vessels shall be proportionate to the gravity of the faults respectively committed; however, if, according to the circumstances, the proportion can not be ascertained or if the faults appear to be equivalent, the liability shall be shared in equal parts.

The damages caused either to the vessels, or to their cargoes, or to the personal effects or other property of the crew, of the passengers, or of other persons on board, shall be borne by the vessels at fault, in the said proportion, without joint responsibility with regard to third parties.

The vessels at fault shall be held jointly liable with regard to third parties for injuries caused by death or wounds; provided, however, that a vessel that has paid more than the share which it is to bear finally, in accordance with the first paragraph of this article, shall have the right of recourse.

It shall be the part of the national legislations to determine, as regards this recourse, the scope and effects of the provisions of contracts or laws which limit the responsibility of the owners of vessels toward the persons on board.

Observations.—(1) Gravity of faults. One of the Governments represented, while approving the comments in the report made at the third session of the conference at Brussels, wondered whether it would not be suitable to indicate that the comparison of the common faults should be based above all on a comparison of the gravity of their consequences.

The subcommission deemed it preferable to abide by the text. The latter, with regard to the reparation of the damage in proportion to the gravity of the faults, leaves full and absolute freedom of judgment to the judges in each case, as well as the right to take into consideration all the factors. He (they?) must decide according to equity; the circumstances of facts are dominating and it seems impossible to lay down precise rules or to decide beforehand that a predominating importance ought to be attached to one factor or one class of considerations rather than to another. There is no doubt, however, in the general opinion, that the phrase "the gravity of the faults respectively committed" authorizes the court to examine the extent to which the fault or negligence of the vessels has contributed to the collision. The principle that there should exist between the fault and the collision a relation of casualty is sanctioned by article 1 and by the other provisions of the convention, especially articles 3 and 4, which, in employing the expression "caused," plainly confirms this rule of common law.

(2) This provision sanctions the right to an action for damages on account of the injuries caused by deaths or wounds. The delegation of the United States made a reservation in this regard to the effect that its Government will have to secure legislative measures in order to enforce the part of the article which relates to the case of death. The subcommittee took note of this reservation and called attention to the fact that the high contracting parties whose legislation might now be insufficient in order to enforce any of the provisions of the convention promised to adopt or to propose to their respective legislatures the necessary measures in this regard.

(3) At the request of one of its members the subcommittee confirmed by an express vote that the right is reserved for the municipal laws of each nation to determine what persons have a right of action on account of wounds or deaths of human beings.

Article 5.—This article is worded as follows:

The liability established by the foregoing articles continues to exist in case the collision be caused by the fault of the pilot, even when the latter is obligatory.

Observations.—With regard to this article the British presented the following observation:

The purpose of article 5 is to remove the exemption from responsibility granted by certain legislations, especially the English, in case there is an obligatory pilot on board. A general question is involved here. Therefore, the British Government thinks that article 5 ought to be transferred to the draft of the convention concerning the limitation of liability of shipowners.

In justifying this observation, the British delegation declared that, while reasons of expediency and method induced it to propose these modifications, and while they were essential as far as the signature of the convention was concerned, they did not involve on the part of the British Government any opposition to the principle established by the text of article 5. Under these circumstances the subcommittee proposes to recognize the observation by adding to the convention an additional article worded as follows:

In derogation of article 16 above, it is understood that the provision of article 5, fixing the liability in case a collision is caused by the fault of an obligatory pilot, shall not spontaneously go into force until the high contracting parties have agreed on the limitations of the liability of shipowners.

This text clearly indicates that no derogation is made from existing laws which, in a large number of countries, hold the ship liable for the fault of even an obligatory pilot.

It is settled right now that the powers unanimously agree that an exception shall no longer be made in a case of compulsory pilotage, the only question left unsettled being the enforcement of this provision. Under these circumstances the subcommittee has unanimously recognized that the provisions, adopted provisionally as a measure of expediency, in nowise changed the character of the convention itself.

Article 7.—In article 7, relating to time limits, it has simply been proposed to substitute the word "suspend" for the word "extend." However, after explanations were made, it was realized that it was best to keep the present wording in order better to show that there was no intention of granting a further period of two years in the case treated of in the paragraph of the last article, but merely as much time as might be necessary in order to act when the defending vessel was within the territorial waters of the nation in which the plaintiff had his domicile or headquarters. The scope and purpose of this paragraph were explained in the previous deliberations and reports, to which reference can only be made.

Article 10.—This article was worded as follows:

Subject to subsequent conventions, the present provisions in nowise affect the nature or extent of the liability of shipowners as regulated in each country nor the obligations arising from transportation contracts or any other contracts.

At the request of the delegation from the United States the subcommittee unanimously declared: (1) That the text of article 10 in nowise affected the provisions of municipal legislation in regard to the exemption clauses in bills of lading such as the Harter Act. (2) That the words "the nature and extent of the liability" relate to the questions which are to constitute the object of the convention on the limitation of the liability. As it appeared that certain doubts might arise in this regard in the law of the United States, the subcommittee agreed to word article 10 as follows:

Subject to subsequent conventions, the present provisions shall in nowise affect the rules on the limitation of liability of shipowners as established in each country nor the obligations arising from the transportation contract or from any other contracts.

The Japanese delegation observed that the Japanese code, in article 592, provides as follows:

Even an express stipulation can not exempt the shipowner from his liability for the injuries caused through his own fault, through the bad faith or a grave fault of the seamen or any other employee, or through the fact that the vessel was not in a seaworthy state at the time of departure.

This provision is extended by article 639 to the transportation of passengers.

The Japanese delegation desired to have it understood that the text of the conventions did not in anywise affect the provisions of the court of commerce of the Empire.

Note was taken of this observation, which is quite in conformity with the spirit of the convention.

Article 12.—In regard to the final paragraph of this article the question was raised whether the municipal law was to be understood as meaning only the

written law. The commission was unanimous in declaring that the expression "municipal law" should be understood here as meaning the written or customary law of the nation.

Article 14.—This article was worded as follows:

> The delegates of the high contracting parties shall meet at Brussels three years after the present convention goes into force for the purpose of considering what improvements might be made therein, and especially in order to extend its sphere of application if possible.

In regard to this article, one Government remarked that it considered it unnecessary to stipulate that a new conference should be held at all events three years after the convention goes into force. It therefore proposed that this article be either omitted or else amended so as to provide that at the expiration of three years the Belgian Government should communicate with the other Governments for the sake of determining whether a new conference would be likely to accomplish any useful purpose.

The subcommittee unanimously proposed, under these circumstances, a rewording as follows:

> Each of the high contracting parties shall have the privilege of calling for a new conference at the end of three years from the date on which this convention goes into force for the purpose of considering what improvements might be made therein, and especially in order to extend its sphere of application if possible.
>
> Any power which makes use of this privilege shall be obliged to give notice of its intention to the other powers, through the Belgian Government, which shall proceed to call the conference within six months.

This provision has the advantage of providing for the mode of procedure in case of possible revision of the convention without laying down the imperative obligation of holding a new conference on a fixed date. The right of initiative is insured in an equal manner to all the nations. It is not to be feared that the signatory powers, all animated by the same desire to establish a uniform maritime law, will insist on the holding of a conference if the replies gathered by the Belgian Government show from the start that a demand for revision does not seem to find sufficient support. This is a question of judgment and expediency which ought to be left to the wisdom of the contracting parties.

After ascertaining that this part of the report of Mr. Franck gave rise to no remarks, the president declared it adopted.

BRAZIL.

MESSAGE OF THE PRESIDENT OF BRAZIL TO THE BRAZILIAN CONGRESS.

File No. 832.032/2.

[The message of the President, Marechal Hermes Rodrigues da Fonseca, was read to the Congress May 3, 1911, and transmitted to the Secretary of State May 31 by the American minister, Mr. Dudley. The following is the only passage referring to the United States:]

[Translation.]

On May 17, 1910, at Quito, and at Lima on May 22, Brazil, the United States of America and the Argentine Republic proffered their good offices to the Governments of Peru and Ecuador to prevent an outbreak of hostilities, which seemed imminent, as a result of fighting on the frontier and serious popular demonstrations at Quito, Guayaquil, and Lima. The initiation of this policy was due entirely to the United States of America, while Brazil and Argentina gladly accepted the invitation extended to them by the American Government to take joint and friendly action in the interests of peace. The Government of Chile was requested to use its good offices with the Ecuador Government, which could not take direct action, in view of the fact that its diplomatic relations with Peru had been broken off. The three Governments by their intervention succeeded in bringing the questions at issue to a definite and satisfactory settlement.

On October 4 of last year there were signed in Rio de Janeiro, embodied in an act, five declaratory articles for the demarcation of the frontiers between the United States of Brazil and the Republic of Argentina. This demarcation was effected on November 3, 1900, and October 6, 1904, by the Brazil-Argentine mixed commission as a complement to the arbitration decision of Washington of February 5, 1895, and of the boundary treaty concluded in Rio de Janeiro on October 6, 1898.

On the same day, October 4, 1910, a convention was signed in Buenos Aires as a complement to the said boundary treaty of 1898. It fixes the dividing line on the section of the River Uruguay which lies between the southwest point of the island known as Brasileira or Quarahim, and the mouth of the River Quarahim.

Ratifications should also be exchanged of the conventions for the interchange of postal orders which we made with France on June 3, 1909, with the United States of America on March 26, with Germany on April 20, and with Italy on December 19, 1910. As far as we are concerned these conventions have already been approved by legislative decrees Nos. 2,359 A, 2.360, 2.361, and 2,362 of December 31, 1910.

JOINT CORRESPONDENCE OF BRAZIL, ARGENTINA, AND THE UNITED STATES IN REGARD TO THE PERU-ECUADOR BOUNDARY DISPUTE.

[*See* Ecuador.]

PREFERENTIAL TARIFF CONCESSIONS IN FAVOR OF AMERICAN PRODUCTS.

File No. 611.3231/185.

The American Ambassador to the Secretary of State.

[Telegrams.]

AMERICAN EMBASSY,
Petropolis, January 2, 1911.

The Executive is authorized to grant during 1911 30 per cent reduction in the duty on flour and 20 per cent on one or more other articles of American production.

Parcel post and arbitration conventions with the United States ratified by Congress December 30. Exchange of the ratifications of the former here awaited.

DUDLEY.

File No. 611.3231/187.

AMERICAN LEGATION,
Petropolis, January 15, 1911.

Executive decree 12th grants tariff reduction during 1911 of 30 per cent, an increase[1] on American flour and 20 per cent on remaining 15 items so favored during 1910. Have submitted supplemental list, but further concessions this year improbable. Conclusion of a reciprocity may be proposed.

DUDLEY.

The Secretary of State to the American Ambassador.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 19, 1911.

Express this Government's high appreciation of the further tariff reduction on American flour and continuation for other American products of last year's preferential tariff treatment.

KNOX.

File No. 611.3231/190.

The American Ambassador to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Petropolis, January 21, 1911.

Mr. MINISTER: I have had the satisfaction of communicating to my Government the substance of the Executive decree No. 8520, of the 12th instant, which continues in force during the calendar year

[1] In increase of the reduction.

1911 the tariff reduction of 20 per cent accorded certain articles of American production upon their importation into Brazil, with the exception of American flour, as to which, in view of the demonstrated insufficiency of that percentage of reduction to place our flour on a competitive basis with other foreign flour in the Brazilian market, and of course mindful at the same time of the magnitude of the importation into the United States of Brazilian products practically all free from duty, your excellency's Government, actuated by a spirit of generous reciprocity, found it proper to increase the former reduction to 30 per cent off the regular duty.

It affords me very great pleasure under the circumstances, and in compliance with a telegraphic instruction which I have just received from Washington, to express to your excellency in the name of the Government of the United States its high appreciation of the further tariff reduction on American flour and the continuation for the other American products of last year's preferential tariff treatment.

Be pleased [etc.],

IRVING B. DUDLEY.

File No. 611.3231/210.

The Argentine Minister to the Secretary of State.

ARGENTINE LEGATION,
Washington, June 9, 1911.

[Translation.]

MEMORANDUM.

In connection with the aide-memoire that the Department of State forwarded to the Argentine Legation on May 23 last,[1] the Argentine Government has apprised its minister at Washington that "the Congress, supported by the press of best standing, believes that the menace placed upon the exportation of Argentine flour by the advantages gained by the Government of the United States of America for its flour imported into Brazil has brought occasion for the Argentine Government to defend itself by increasing the import duties on petroleum, lumber, and other staples of American imports." This opinion is shared by the Argentine commercial institutions commanding the wider influence and moral authority, such as the Chamber of the Bourse of Commerce of Buenos Aires, a copy in extenso of whose opinion I had the pleasure to offer confidentially to the Department of State. It is deemed possible that the Government of the United States may renew its demands and succeed in having the bonus raised to 40 or 50 per cent, which would create an insuperable barrier to Argentine exportation. The Argentine Government, which is, now as always, most keenly interested in eliminating any cause of dissent or misunderstanding that could mar the profound sympathy and close friendship which bind the people and the Government of the United States of America to the people and Government of the Argentine Republic, and to the strengthening of which it has avowedly and repeatedly devoted its best efforts, desires to check the "retaliations contemplated by the Congress," and to that end it must

[1] Not printed. See 611.3231/209a.

receive the assurance that the Government of the United States of America stands definitely satisfied with the present preferential reduction enjoyed by its flour imported into Brazil and would duly appreciate a formal declaration of the Government of the United States of America to the effect that it has no thought of endeavoring to obtain greater concessions.

In the confidential conversations he had the honor to have with the Secretary of State yesterday morning the Argentine minister made the statement set forth in the present memorandum, which he has taken pleasure in writing in compliance with the suggestion that the Secretary was pleased to make.

The Secretary of State to the Argentine Minister.

DEPARTMENT OF STATE,
Washington, June 13, 1911.

MEMORANDUM.

In the memorandum of the Argentine Legation, dated June 9, 1911, the Department of State is made acquainted with information which has been forwarded by the Government of the Argentine Republic to its minister at Washington, that—

> the congress, supported by the press of best standing, believes that the menace placed upon the exportation of Argentine flour by the advantages gained by the Government of the United States of America for its flour imported into Brazil has brought occasion for the Argentine Government to defend itself by increasing the import duties on petroleum, lumber, and other staples of American imports.

The Department of State takes cognizance of the statement of the memorandum that to the end that the threatened retaliations by the Argentine Congress may be checked, the Argentine Government, desiring to eliminate any cause of misunderstanding that could mar the sympathy and friendship existing between the Government and the people of the Argentine Republic and the Government and the people of the United States, seeks to obtain from the Government of the United States a formal declaration to the effect that it has no thought of endeavoring to obtain from the Government of Brazil greater concessions with respect to flour than those now existing.

On its part the Government of the United States is equally desirous of continuing unimpaired the cordial relations and friendly intercourse which it has been its constant aim and endeavor to maintain with the Argentine Republic. For this reason, and in no way influenced by the threat of hostile legislation by the Argentine Congress, the Government of the United States has no hesitancy in declaring, especially in view of the voluntary promise of the Argentine Government to prevent legislation inimical to American interests and commerce, that it has no present thought of seeking from the Government of Brazil greater concessions with respect to American flour than those that the Government of Brazil in consideration of its own economic interests has already been pleased to grant. To this declaration the Government of the United States is glad to add the assurance that should circumstances now unforeseen arise to change this situation, the Government of the United States, follow-

ing its wish to deal fairly with the Government of the Argentine Republic, will give to that Government six months' notice before negotiating with Brazil for greater preferential treatment of American flour, in order that full and seasonable opportunity may be given for an amicable discussion between the Argentine and United States Governments to adjust any questions that such negotiations with the Government of Brazil might be thought to interject into the trade relations between the Argentine Republic and the United States of America.

File No. 611.3231/215.

The American Chargé d'Affaires at Buenos Aires to the Secretary of State.

AMERICAN LEGATION,
No. 941.] *Buenos Aires, June 28, 1911.*

SIR: Referring to previous dispatches from this legation regarding the matter of preferential tariff treatment of American flour in Brazil, I have the honor to report that on the 26th instant the Argentine minister for foreign affairs, Dr. Ernesto Bosch, having been requested by the chamber of deputies to inform that body of the steps taken by the Government to guard the interests of Argentine millers in Brazil, made a detailed statement in the matter to the Chamber of Deputies, the text of which I inclose herewith, together with a translation in full.[1] There is also inclosed the remarks made by Deputy M. Carles following the minister's statement, with a translation of the pertinent parts thereof.[1]

The communication from the Department of State to Minister Naón, quoted by Dr. Bosch, was received by the chamber with marked signs of approval as was the minister's statement. Contrary to general expectation and to what Señor Carles had himself counseled on previous occasions (see my No. 854 of Mar. 15, 1911), that gentleman introduced a bill which, instead of providing that the Executive Power be authorized to augment duties on certain articles imported from the United States, authorized the Executive to suppress or lower them on American petroleum, lumber, and machinery whenever reciprocal agreement be made. As reported to the Department in my telegram of yesterday, this bill immediately passed the chamber of deputies.

Yesterday morning Dr. Zeballos called upon me at the legation to secure the text of our present tariff law. He told me that Señor Carles's change of attitude in the flour question was due entirely to the insistance of His Excellency the President and of Dr. Bosch that no bill detrimental to the United States interests in Argentina should be introduced in Congress. I called Dr. Zeballos's attention to the importance of the United States Government's declaration that it would not seek further favors from Brazil without previous notification to his Government and I emphasized the fact that this declaration was but another demonstration of my Government's friendly feelings for the Argentine people. I also drew his attention to section 2 of the tariff law respecting the maximum and minimum tariff of the United States, pointing out that far from being a menace to international commercial interests it was merely a protection meas-

[1] Not printed.

ure to enable the United States Government to guard against discriminations unfavorable to its products.

Dr. Bosch's response to this interpellation has been well received, while the Department's note to the Argentine minister at Washington has changed the feeling of apprehension heretofore existing in Government and commercial circles that the United States would compel Brazil to grant American flour further preference over that already accorded. As soon as this apprehension was removed by the department's memorandum to Dr. Naón, the desire to legislate against American imports disappeared. This would appear to bear out my report in the said No. 854 that no adverse legislation would be passed if it were made apparent that we would not seek further lowering of the Brazilian tariff on American flour. I am of the opinion that as soon as Dr. Carles learned of our Government's friendly statement he realized that he would not have the support of the Chamber of Deputies on a bill to increase duties on our products. He therefore introduced a bill in the contrary sense (a translation of which was telegraphed to the department on the 27th instant[1]) which immediately passed the lower house.

I must also report in this connection that several foreign ministers called on the Minister for Foreign Affairs this morning to remonstrate against the provisions of the proposed law as being contrary to their treaty agreements (of the most favored nation) with Argentina. With the exception of the British, it has not been possible to ascertain which of the foreign diplomats made representations to the minister, but I am inclined to believe that it was those of Germany, France, and Italy. The British chargé d'affaires tells me that the minister replied to him that the bill had not yet become law and that moreover it was only a facultative authority given the Executive Power to be exercised in case reciprocity agreements were entered into. He further said to me that it was the theory of the United States Government that benefits granted one nation by reciprocity agreements could not be claimed by a third under the most favored nation clause, and that, although his Government has accepted that theory from us he doubted whether they would do so from Argentina.

I have, etc., ROBERT WOODS BLISS.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND BRAZIL.

File No. 711.3212/15.

Signed at Washington, January 23, 1909.
Ratification advised by the Senate, January 27, 1909.
Ratified by the President, March 1, 1909.
Ratified by Brazil, January 2, 1911.
Ratifications exchanged at Washington, July 26, 1911.
Proclaimed, August 2, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an arbitration convention between the United States of America and the United States of Brazil was concluded and signed

[1] Not printed.

by their respective plenipotentiaries at Washington on the twenty-third day of January, one thousand nine hundred and nine, the original of which convention, being in the English and Portuguese languages, is word for word as follows:

The President of the United States of America and the President of the United States of Brazil, desiring to conclude an arbitration convention in pursuance of the principles set forth in Articles XV to XIX and in Article XXI of the Convention for the Pacific Settlement of International Disputes, signed at The Hague on July 29, 1899, and in Articles XXXVII to XL and Article XLII of the convention signed at the same city of The Hague on October 18, 1907, have named as their plenipotentiaries, to wit:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

The President of the United States of Brazil, His Excellency Senhor Joaquim Nabuco, ambassador extraordinary and plenipotentiary to the Government of the United States of America, member of the Permanent Court of Arbitration of The Hague;

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

ARTICLE I.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two high contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two high contracting parties, and do not concern the interests of third parties, and it being further understood that in case either of the two high contracting parties shall so elect any arbitration pursuant hereto shall be had before the chief of a friendly State or arbitrators selected without limitation to the lists of the aforesaid Hague Tribunal.

ARTICLE II.

In each individual case the two high contracting parties, before appealing to the Permanent Court of Arbitration of The Hague or to other arbitrators or arbitrator, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrator or arbitrators and the periods to be fixed for the formation of the court, or for the selection of the arbitrator or arbitrators, and for the several stages of the procedure. It is understood that on the part of the United States of America such special agreement will be made 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 United States of Brazil with the approval of the two Houses of the Federal Congress thereof.

ARTICLE III.

The present convention will be in force for a period of five years, dating from the day of the exchange of its ratifications, and, if not denounced six months before the end of the aforesaid term, will be renewed for an equal period of five years, and so on successively.

ARTICLE IV.

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 United States of Brazil, with the authorization of the Federal Congress thereof. The ratifications shall be exchanged in the city of Washington as soon as possible, and the convention shall take effect immediately after the exchange of the ratifications.

In testimony whereof, we, the aforesaid plenipotentiaries, have signed the present instrument in duplicate, in the English and Portuguese languages, and have affixed thereto our seals.

Done in the city of Washington, this 23d day of January, in the year one thousand nine hundred and nine.

ELIHU ROOT. [SEAL.]
JOAQUIM NABUCO. [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-sixth day of July, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, 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 testimony 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 second day of August in the year of our Lord one thousand nine hundred and eleven, [SEAL.] and of the independence of the United States of America the one hundred and thirty-sixth.

WM. H. TAFT.

By the President:
P. C. KNOX,
Secretary of State.

CHILE.

MESSAGE OF THE PRESIDENT TO THE CONGRESS.

File No. 825.032–1.

[The message of the President, Don Ramón Barros Luco, was read to the Congress June 1, 1911, and transmitted to the Secretary of State June 10 by the American minister, Mr. Fletcher. The following is the only passage referring to the United States:]

[Translation.]

Our relations with the United States of America tend to grow more close and consolidated each day; the development of our common economic and industrial interests will contribute greatly to this end. The marked respect which the Government of that country has shown for ours in honoring the memory of our representative in Washington [1] has awakened the most sincere gratitude of the nation.

The Fourth International Conference of the American States which was held in Buenos Aires in July and August of last year accomplished a very interesting work, following strictly the program which the interested Governments had previously approved. Its deliberations concerned themselves with matters of common interest for American States, and its resolutions, adopted unanimously, obeyed principally the proposition of uniting them in a policy of solidarity which should assure the peace of the continent. All contentious subjects were eliminated from the program; the debates were held in an atmosphere of cordiality which favored the adoption of resolutions of real international importance.

PARTICIPATION OF CHILE IN THE CORRESPONDENCE CONCERNING THE BOUNDARY DISPUTE BETWEEN ECUADOR AND PERU.

(*See* Ecuador. Boundary dispute between Ecuador and Peru.)

ASYLUM SOUGHT AT THE AMERICAN CONSULATE AT IQUIQUE BY THE PERUVIAN CONSUL GENERAL; TEMPORARY REFUGE GRANTED.

(See Mexico; Protection of Chinese, etc.; instruction No. 616 of Nov. 8, 1911.)

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[1] The late minister, Don Aníbal Cruz, who died Dec. 18, 1910. See Foreign Relations, 1910, pp. 136–137.

ARBITRATION OF THE CLAIM OF ALSOP AND COMPANY, AN AMERICAN CORPORATION, v. CHILE, AWARD.[1]

File No. 425.11A78/582.

The American Ambassador to Great Britain to the Secretary of State.

No. 1738.] AMERICAN EMBASSY,
London, July 11, 1911.

SIR: Referring to my telegram concerning my receipt to-day at the foreign office of His Majesty's decision and award in the Alsop case, I hasten to forward the original of this decision and award as executed in triplicate. Another of the originals was handed in my presence simultaneously to Mr. Edwards, the Chilean minister. As stated in the telegram, the award is for 2,275,375 bolivianos; and the claim of the United States that the value of the original debt, with interest, should be calculated in gold is denied.

I have, etc.,

WHITELAW REID.

Award pronounced by His Majesty King George V as amiable compositeur between the United States of America and the Republic of Chile in the matter of the Alsop claim.

Whereas by a protocol dated the first day of December, 1909, the Government of the United States of America and the Government of the Republic of Chile resolved that as they had not been able to agree as to the amount equitably due to the claimants in the Alsop case they would submit the whole controversy to His late Majesty King Edward VII as an *Amiable Compositeur* to determine the amount equitably due to the said claimants; and

Whereas on account of his untimely death His late Majesty was not able to carry out the duty which he had undertaken; and

Whereas at the request of the two Governments We agreed to act in place of His late Majesty; and

Whereas We determined to designate a commission to study the papers submitted to Us on either side and submit a report to Us for Our consideration as to the amount equitably due to the said claimants; and

Whereas We appointed for that purpose—

Our right trusty and right well-beloved cousin Hamilton John Agmondesham, Earl of Desart, K. C. B., a member of the permanent court of arbitration;

Our right trusty and well-beloved William Snowden, Baron Robson, G. C. M. G., a lord of appeal in ordinary and a member of Our most honourable privy council; and

Our trusty and well-beloved Cecil James Barrington Hurst, C. B., of the Middle Temple, barrister-at-law, assistant legal adviser to Our principal secretary of state for foreign affairs; and

Whereas the said commission have submitted unto Us for Our consideration the following report:

May it please Your Majesty:

On the 1st December, 1909, the Government of the United States of America and the Government of the Republic of Chile entered into the following protocol submitting to His late Majesty what is known as the Alsop Claim against the Republic of Chile:

PROTOCOL.

The Government of the United States of America and the Government of the Republic of Chile, through their respective plenipotentiaries, to wit: Seth Low Pierrepont, chargé d'affaires of the United States of America, and Agustin Edwards, minister of foreign affairs of Chile, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following

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[1] Continued from Foreign Relations, 1910, pp. 138–189.

Protocol of submission.

Whereas the Government of the United States of America and the Government of the Republic of Chile have not been able to agree as to the amount equitably due the claimants in the Alsop claim;

Therefore, the two Governments have resolved to submit the whole controversy to His Britannic Majesty Edward VII, who as an "amiable compositeur" shall determine what amount, if any, is, under all the facts and circumstances of the case, and taking into consideration all documents, evidence, correspondence, allegations, and arguments which may be presented by either Government, equitably due said claimants.

The full case of each Government shall be submitted to His Britannic Majesty, and to the other Government through its duly accredited representative at St. James, within six months from the date of this agreement; each Government shall then have four months in which to submit a countercase to His Britannic Majesty and to the other Government as above provided, which countercase shall contain only matters in defence of the other's case.

The case shall then be closed unless His Britannic Majesty shall call for further documents, evidence, correspondence, or arguments from either Government, in which case such further documents, evidence, correspondence, or arguments shall be furnished within sixty days from the date of the call. If not so furnished within the time specified, a decision in the case shall be given as if such documents, evidence, correspondence, or arguments did not exist.

The decision by His Britannic Majesty shall be accepted as final and binding upon the two Governments.

In witness whereof, the undersigned plenipotentiaries of the United States and Chile have signed the above protocol both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the city of Santiago, this first day of December, 1909.

[SEAL.] SETH LOW PIERREPONT.
[SEAL.] AGUSTIN EDWARDS.

Your Majesty has been pleased at the request of the parties to the reference to consent to act as arbitrator in place of His late Majesty. The duty which Your Majesty has been pleased to undertake is one of pronouncing an award which shall do substantial justice between the parties without attaching too great an importance to the technical points which may be raised on either side. This is what we conceive to be the function of an "amiable compositeur."

In accordance with the terms of the protocol, cases have been submitted to Your Majesty by both the above-named Governments. These cases are very voluminous and elaborate, and the United States Government annexes three volumes of appendices.

The arguments put forward are, in relation to some matters, of a very technical character, and in relation to all matters are elaborated at great length.

The United States case runs into 352 pages, their countercase into 198 pages, and there are, as stated above, three volumes of appendices.

The Chilean case is of 54 folio pages, the countercase of 335 folio pages, but, the material documents being quoted over and over again in the cases and countercases, only a short appendix of documents is annexed.

Your Majesty has been pleased to do us the honor of directing us to give our consideration to the whole matter and to report to Your Majesty thereon.

It was necessary for us for this purpose to consider and weigh the arguments set out in these books, and this occupied a considerable time, but we are glad to be able to state that in our judgment the issues raised and our conclusions can be set out for the consideration of Your Majesty in a comparatively small compass.

The firm of Alsop & Co. was registered in Chile, its seat of business being in Valparaiso, but it was composed of American citizens. The claim arises out of an agreement made with the Government of Bolivia so long ago as the year 1876.

In that year the firm was in liquidation and through its liquidator, a Mr. Wheelwright, entered into arrangements with the Government of Bolivia for the settlement of a debt arising out of previous transactions between that Government and one Pedro Lopez Gama, a Brazilian citizen, which debt had been assigned to Alsop & Co.

These arrangements were set out in the form of a contract between the Bolivian Government and Wheelwright, called herein for convenience of reference the Wheelwright contract, and it is in respect of the unfulfilled obligations of Bolivia under that contract, which obligations are alleged by the United States Government both to have fallen upon and to have been specifically undertaken by the Government of Chile, that the claim arises which has been submitted for the decision of Your Majesty.

The amount of the claim put forward by the United States Government on behalf of Alsop & Co. is for the sum of $2,803,370.36.

The Chilean Government admit that they have assumed Bolivia's liability under the Wheelwright contract to a limited extent by a treaty entered into between the two States in 1904 and have offered the payment of a certain sum in respect of the claim. This sum has been refused by the United States Government as being insufficient to satisfy either the just claim of Alsop & Co. on Bolivia or Chile or the liability which Chile has herself undertaken on behalf of Bolivia.

The claim has now been the subject of discussion and controversy between the Governments of the United States and of Chile for more than 25 years, and the failure to arrive at any conclusion acceptable to both Governments has induced them to invite Your Majesty to pronounce an award which both parties have undertaken to accept as final and binding upon the two Governments.

It has already been stated that the object of the Wheelwright contract was to provide for the payment of a debt from the Government of Bolivia to Alsop & Co. as the assignees of Gama, who had been involved in various transactions of a complicated nature with the Government of Bolivia, resulting in that Government's admission that there was due a capital sum of 835,000 bolivianos and certain arrears of interest thereon.

The contract itself states that it is "for the consolidation and amortization of the credits which he (Wheelwright) has pending against the State."

It is important to notice that, though the Wheelwright contract was made with the Government of Bolivia, it is against the Government of Chile that the Alsop claim is now put forward by the Government of the United States.

Bolivia admitted by this contract that she was then indebted to Alsop & Co. in the sum of 835,000 bolivianos and agreed that the debt was to carry interest at the rate of 5 per cent per annum, not compoundable. The contract provided for the liquidation of this debt by giving Wheelwright the right to the sums by which the Bolivian share of certain customs receipts might exceed 405,000 bolivianos annually and also by giving him the right to work the Government silver mines in the coast department of Bolivia for a term of 25 years upon the terms that the Government share of the proceeds of the mines should be retained by him and applied in reduction of the debt.

At the time of this contract these customs dues were collected in Peruvian territory, at the port of Arica, which was the natural port of access to a large part of the territory of Bolivia, and an arrangement was in force between the two Republics under which the customs duties levied at the port were divided between them, and no further duties were levied at the Bolivian frontier on goods going to that country. Under this arrangement Bolivia took a fixed annual sum of 405,000 bolivianos as her share, the balance, whatever its amount, going to Peru. Bolivia was, however, dissatisfied with the arrangement, and had given notice to terminate it; she hoped that under any new agreement her income from this source would be increased, and it was this anticipated increase which she agreed to apply toward the liquidation of the Alsop claim.

The origin of the Government silver mines, of which the proceeds were to be applied to the same purpose, was as follows: Under the Bolivian mining law the discoverer of a mine was entitled to two, sometimes three, "estacas," or plats, of certain size, which were first marked off along the reef or lode. Another "estaca" of 60 by 30 meters was then marked off, and was Government property. The right to work these small mines was given to the firm of Alsop & Co., upon the terms that 60 per cent of the net proceeds were to go to the firm as a reward for its labors and 40 per cent was to be regarded as the share of the Government, but was to be retained by the firm and applied in liquidation of the debt.

Early in the year 1879, less than three years after the making of the Wheelwright contract, war broke out between Chile and Bolivia, and the coast Province of Bolivia rapidly passed into the military occupation of the former Republic. Shortly afterwards Peru also became engaged in the conflict, and by June, 1880, the port of Arica had passed into the possession of the Chilean Government.

The result of the war, therefore, was that both the sources to which Alsop & Co. were entitled to look for the money which would pay their debt had passed out of the control of Bolivia into the possession of Chile, and in Chile's possession they still remain. Her military occupation of the coast province of Bolivia was rendered permanent by the pact of indefinite truce of 1884 between Bolivia and Chile, and this military occupation was definitely converted into

sovereignty by the treaty of peace of 1904. Subject to a future plebiscite, Arica was transferred from Peru to Chile by the treaty of Ancon, 1883.

The debt admitted by Bolivia in 1876 as due to Alsop & Co. has never been paid, and though it is not alleged by the United States of America that the conquest of Arica and of the coast province would of itself affect the indebtedness of Bolivia or transfer the liability to Chile, it is contended by them that, on other grounds, the firm of Alsop & Co. are now entitled to recover the amount of their claim from Chile.

These grounds are (1) that Chile appropriated to her own use the proceeds of the customhouse at Arica, thereby preventing any money coming to Bolivia which Alsop & Co. might claim under the Wheelwright contract to be applicable to the repayment of the debt; (2) that Chile prevented Alsop & Co. from working the Government silver mines in the coast province in the way they were entitled to work them by applying Chilean law in the province from the date of the military occupation, and thereby subjecting Alsop & Co. to more onerous terms than would have been the case under Bolivian law; and (3) that from time to time Chile undertook to pay the claim.

The Government of the United States of America began to put forward the claim of Alsop & Co. as a good claim against the Government of Chile from a comparatively early date, though it is only recently that the claim has assumed its present shape and magnitude. The United States, however, so far as concerns the original debt, admitted in 1876 by the Government of Bolivia (viz, 835,000 bolivianos, carrying interest at 5 per cent), also allege that Bolivia is still the debtor.

The Republic of Bolivia is not a party to the submission of the matter to Your Majesty, and can not be bound by the result, but her standpoint is that her liability has been entirely transferred to Chile as a result of her loss of the coast province and of the arrangements concluded between her and Chile.

Chile, on the other hand, repudiates liability for the claim altogether, so far as the claim is based on her appropriation of the Arica customs or on the application of Chilean law to the province she had conquered; and so far as the claim against her is based upon her undertakings to pay, she maintains that it is a matter in which she is only liable to the extent of the provision made in the treaty between her and Bolivia, and that to that extent she is and always has been ready and willing to pay Alsop & Co., but that the amount offered has been refused.

Before passing to a detailed examination of the claim it is desirable to state that in 1890 a claims commission was appointed to deal with the various outstanding claims between Chile and the United States of America, but the commission was unable to deal with the Alsop claim within the time at its disposal. This commission was revived in 1894, and the Alsop clam was again brought before it, but was disallowed on the ground that Alsop & Co. had no *locus standi*, not being included within the term "corporations, companies, or private individuals, citizens of the United States," as the firm had been organized as a partnership under Chilean law, and had thereby become a juridical entity possessing Chilean nationality. The labors of the commission therefore failed to bring about a settlement of the dispute, and it now comes before Your Majesty to determine the amount, if any, which is equitably due to the claimants, the representatives of the former partners of the firm of Alsop & Co., now in liquidation, all of whom are alleged to be citizens of the United States.

The Chilean Government, in the case presented to Your Majesty, again suggest that, as the firm was registered in Chile, and is a Chilean company, their grievances can not properly be the subject of a diplomatic claim, and that the claimants should be referred to the Chilean courts for the establishment of any rights they may possess.

We hardly think that this contention is seriously put forward as precluding Your Majesty from dealing with the merits of the case. It would be inconsistent with the terms of the reference to Your Majesty, and would practically exclude the possibility of any real decision on the equities of the claim put forward.

The remedy suggested would probably be illusory, and, so far from removing friction, an award in this sense, transferring the real decision from an impartial arbitrator with full powers to the courts of the country concerned, which in all probability have no sufficient power to deal equitably with the claim, could afford no effective solution of the points at issue or do otherwise than increase the friction which has already arisen between the two States.

We are clearly of opinion, looking to the terms of reference and to all the circumstances of the case, that such a contention, if intended to be seriously

put forward by Chile, should be rejected. We think that it may be disregarded by Your Majesty.

We pass now to a more detailed examination of the claim.

The Wheelwright contract was entered into by the parties with the intention of placing upon a permanent basis the large claims which Alsop & Co. then had against Bolivia.

The claims originated in the transactions between a Brazilian citizen of the name of Pedro López Gama who had advanced money to the Bolivian Government in connection with the exploitation of guano and the working of mines. Gama was financed by the house of Alsop, but he became involved in financial difficulties, and in 1875 he assigned the whole of his interests in his concessions and the whole of his claims against the Republic to the firm.

The finances of Bolivia were, as it is stated, at that time in a very bad condition, and it was of the first importance to the liquidator of Alsop & Co. to come to some definite arrangement with the Republic and to obtain, if possible, payment of, or security for, the sums which she owed. Such an arrangement was effected in 1876 by the Wheelwright contract, which fixed the amount of the State's liability to the firm of Alsop at 835,000 bolivianos, and provided two sources to which the firm might look with some degree of hope for the payment of the debt.

It is not, in our opinion, incumbent upon Your Majesty to go behind this contract of 1876 or to deal in any way with the transactions which preceded it.

It is contended by the Government of Chile that the transactions between Gama and Bolivia were of so speculative a character, and that the cash advances which Bolivia had received from Gama were so small in amount, that, in determining the amount of the Chilean liability, if any, in connection with the claim, it would be reasonable to disregard the Wheelwright contract as a settlement between the parties. Apart from the fact that the statements on this point are not conclusive, we can not advise Your Majesty to adopt this view. The Government of Bolivia definitely admitted in the contract that they owed a particular sum to Alsop & Co., and agreed that this sum should carry interest at a specified rate. No sufficient grounds are shown for holding that Chile, any more than Bolivia herself, is entitled to say that at the time of the contract Bolivia really owed Alsop & Co. a smaller sum than she herself admitted.

The important articles of the contract are as follows:

In view of a proposition made by Mr. John Wheelwright, a member and representative of the firm of Alsop & Co., of Valparaiso, in liquidation for the purpose of providing for the consolidation and payment of its claims against the Government by an assignment of the rights which were acknowledged in favor of Pedro López Gama, a new compromise has been concluded in a Cabinet meeting with Mr. Wheelwright which finally terminates this matter. It is drawn up in the following terms:

First. The sum of 835,000 bolivianos is acknowledged as due the aforesaid representative of the firm of Alsop & Co., together with interest at the rate of 5 per cent per annum, not addable to the principal, and to be reckoned from the date on which this contract is duly executed.

Second. The said principal and interest shall be amortised by means of drafts, all of which are to be drawn in quarterly instalments on the surplus which, from the date on which the present customs contract with Peru terminates, shall arise from the quota due Bolivia in the collection of duties in the northern customhouse, over and above the 405,000 bolivianos which the Peruvian Government now pays—whether the customs treaty with that Republic is renewed or whether the national customhouse is reestablished.

Third. All of the silver mines of the Government in the department along the coast are hereby devoted to payment of the said amortisation, for which purpose 40 per cent of the net profit shall be utilised, except in the mine known as "Flor del Desierto," concerning which provision is made in the ensuing article. * * *

Special arrangements with regard to the Flor del Desierto were made, because under article 4 of the contract Bolivia admitted that, in addition to the sum of 835,000 bolivianos referred to above, she was in arrears with the interest to the extent of 170,700 bolivianos, and under the same article Alsop & Co. received in settlement of this sum for arrears of interest the right to work two mines, of which one was the Flor del Desierto and the other was to be agreed between the parties. If these two mines produced more than enough to pay this interest claim, the surplus was to go in reduction of the principal debt; but, if they failed to do so, the loss was to fall on the firm.

The second mine was selected; both were worked, and they failed to produce sufficient available profits to pay the claim for arrears of interest. Under the terms of this article, therefore, the liability for arrears of interest fell to the ground, and no question with regard to it arises in the present arbitration.

Arica customs.

The first of the two sources to which, under the Wheelwright contract, Messrs. Alsop were to look for the payment of their debt was the income which Bolivia might draw from the northern customhouse in excess of the sum of 405,000 bolivianos.

The northern customhouse was situated at Arica, a port at that time in Peruvian territory. There was, however, only a narrow belt between Arica and Bolivia, and it formed the natural port of access to the sea for a considerable portion of the territory of Bolivia. On the 23d July, 1870, an arrangement had been made between Bolivia and Peru under which Peru was to levy, in accordance with the Peruvian tariff, all the customs dues on goods imported at the port of Arica, whether they were intended for Peru or for Bolivia, and out of the proceeds was to pay a fixed annual sum of 405,000 bolivianos to Bolivia, keeping the whole of the remainder for her own use. This arrangement had been concluded for a term of five years certain, and was thereafter terminable by 18 months' notice on either side. Notice to terminate had been given by Bolivia on the 5th of October, 1876, and in the ordinary course would have taken effect on the 5th April, 1878.

At the time of the Wheelwright contract Bolivia presumably anticipated that before long she would receive a larger income from this source, and, though she was not in a financial position to suffer any diminution of her existing income, she was willing to apply the anticipated increase, whatever it might be, to the payment of this debt.

No further agreement was, in fact, come to between Peru and Bolivia until October, 1878, and by mutual arrangement the agreement of 1870 continued in force until May, 1879.

Under the new agreement concluded on the 26th October, 1878, goods for Bolivia were to pay import dues at Arica in accordance with the Bolivian tariff, and the proceeds of such dues were to belong to Bolivia, but in return for the use of her customhouses, ports, and public works, Peru was to levy for her own use on such goods a duty of 4 per cent (subsequently raised to 5 per cent).

In June, 1880, after the treaty of 1878 had only been in operation for about a year, the port of Arica was occupied by the Chilean troops, war having been declared by Chile against Peru in the meantime.

From the moment when Chile as a military invader occupied the port of Arica the arrangement in force between Bolivia and Peru was necessarily superseded; such import dues as were levied by Chile by virtue of her military occupation and because the goods were being introduced into what was, for the time being, Chilean territory. A further result was that Bolivia became entitled to set up a customhouse on her own frontier and there levy a duty upon such goods as should be imported into her territory, even though they had already paid duty to Chile at Arica, but the papers do not disclose whether any attempt was made by her to do so.

The result was that from the time of the Chilean occupation of Arica until an arrangement was come to between Chile and Bolivia, the import dues levied at Arica were levied by Chile and appropriated to her own use as being import dues paid on goods introduced into territory of which she was in possession.

This state of things continued until the 29th November, 1884, when the ratifications were exchanged of the pact of indefinite truce between Chile and Bolivia. Under this treaty the system of levying at Arica the customs dues on imported goods intended for Bolivia was revived. By article 6, as interpreted by the additional protocol of the 8th April, the total receipts of the Arica customhouse were divided as follows: Twenty-five per cent were allotted to Chile for her own use, 35 per cent were allotted to Bolivia for her own use, the remaining 40 per cent were considered to belong to Bolivia, but were to be retained by Chile until certain claims by Chile for losses suffered by Chilean citizens at the hands of Bolivia during the war were satisfied.

The United States maintain that Chile had no right to the customs dues she levied at Arica between the date when her military occupation of the port commenced and the pact of indefinite truce or to the share which she received under that truce.

It is contended that the effect of the Wheelwright contract was to hypothecate in favor of Alsop & Co., or even actually to assign to Alsop & Co., after the manner of an equitable assignment of book debts, all the receipts of the Arica customhouse to which Bolivia could lay claim, except the 405,000 bolivianos which she had been accustomed to receive annually under the former arrangement.

They further contend that such assignment of hypothecation of customs was a transaction which could not be set aside, and constituted an arrangement which Chile was bound to respect; in support of this theory reference is made to the well-known case of the Silesian loan, and to others where specified customs receipts have been set aside in favor of a particular group of creditors. It is therefore contended that as and when Chile received these customs receipts they formed in her hands money which was had and received to the use of Alsop & Co., and which she was bound to pay to Wheelwright until the debt to the firm had been paid off.

In their case the United States of America give a table of the customs receipts at Arica from the time of the Chilean occupation up till 1884, and contend that the whole of these sums, except 5 per cent, would have gone to Bolivia under the 1878 agreement with Peru, and were therefore subject to the assignment to Alsop & Co., and that if Alsop & Co. had received them, the whole of their debt would have been paid off by the end of 1882.

They further contend that the value of the original debt with interest should be calculated in gold at the date when it would have been paid off under the above calculation, and that from that time it became a debt payable in gold and bearing interest at 6 per cent, the legal rate in Chile, instead of a debt payable in bolivianos, and bearing interest at 5 per cent as stipulated in the Wheelwright contract.

The net result is a claim under this head of $2,337,384.28.

In view of these contentions it becomes necessary to analyze the situation created by article 2 of the Wheelwright contract and by the Chilean military occupation of Arica with some care.

At the time of the contract Arica was a Peruvian port, and consequently Bolivia could have no interest in customs dues levied there except by virtue of some arrangement subsisting between herself and the sovereign of Arica.

Under no possible circumstances could an agreement between Bolivia and a private individual affect anything more than the remittances she might from time to time receive from the sovereign authority of Arica under the arrangement subsisting between them. Such a contract as that of 1876 between Wheelwright and Bolivia necessarily presupposes, so far as it affects Arica and the customs dues levied there, the existence of an agreement in force and operative between Bolivia and the sovereign of Arica. The effect of the Chilean occupation of Arica was to put it out of the power of Peru to carry out the agreement of 1878; consequently Bolivia's right to any share in the customs collected at Arica determined from that moment and continued in suspense until such time as that or some new agreement was again in operation between herself and the power in possession of Arica.

In the light of these considerations it is desirable to consider closely the wording of article 2 of the Wheelwright contract; it will be noticed that it makes no mention whatever of Arica; all it says is that the indebtedness to Alsop is to be amortized by drafts on the surplus of the quota due Bolivia in the collection of duties *in the northern customhouse* over and above the 405,000 bolivianos whether the customs treaty with Peru is renewed or *whether the national customhouse is reestablished.* It is in fact no more than an undertaking by Bolivia that *her receipts* from a specified part of the customs dues shall be applied to the Alsop debt whether those customs dues are levied at Arica or elsewhere.

Such an undertaking does not amount to an hypothecation of the Arica customs, the Arica customs could not be hypothecated or assigned except by the sovereign of Arica, and Bolivia was not in 1876, nor at any subsequent time has she been, the sovereign of Arica.

The precedents, such as the case of the Silesian loan and others, to which the attention of Your Majesty is directed, have therefore no bearing on this case at all, as they were all instances where arrangements had been made or were in contemplation with reference to the disposition of customs receipts by the sovereign who was entitled to levy them.

The Wheelwright contract was not binding on Peru, the then sovereign of Arica, as she was not a party to it; still less was it binding on Chile, who by right of military occupation ousted Peru from Arica in 1880. In short, the conditions which were the basis of this part of the agreement had ceased to exist. As a prospective source of payment it had disappeared, and it was for the debtor to find some other source of payment or some security.

There remains a further question whether the arrangements embodied in the pact of indefinite truce of 1884 between Chile and Bolivia constituted violation

of the rights of Alsop & Co., and afford any just ground for complaint against the former Republic.

Under the pact Chile was to receive 25 per cent of the proceeds of the customs receipts on Bolivian goods at Arica, and was to retain a further 40 per cent in payment of certain Chilean claims, and Bolivia received 35 per cent for her own use. In 1876, the date of the Wheelwright contract, Bolivia was receiving nothing from the Arica customs beyond the 405,000 bolivianos which she was to retain; she undertook under that contract no obligation, either to vary the arrangement then in force and insure to herself an increased income, or to set up her own customhouses; nor was she debarred from making an altogether different arrangement under which she might never receive more than the 405,000 bolivianos; all she undertook that Alsop & Co. should have was the surplus she hoped to receive above the 405,000 bolivianos as and when she did receive it.

It follows from this that the 1884 pact constituted no breach of duty on the part of Bolivia toward the firm of Alsop & Co., still less was it an infringement of the rights of the firm on the part of Chile. It is, however, noteworthy that in the year 1885, when Bolivia's 35 per cent yielded a sum which substantially exceeded the 405,000 bolivianos which she was entitled to retain, Alsop & Co. appear to have made no attempt to secure the surplus in reduction of their debt.

The result is that with regard to this part of the case we can only report to Your Majesty that the Wheelwright contract effected no assignment or hypothecation of the Arica customs, that the arrangement embodied in article 2 of that contract was not binding on Chile, that Chile in appropriating the proceeds of the Arica customs, either before or after the pact of indefinite truce in 1884, did not receive the money to the use of Alsop & Co., and that the claim under this head for $2,337,384.28 payable in gold is not sustainable.

The Government silver mines.

The second source to which Alsop & Co. were to look for the repayment of their debt was the right given them by article 3 of the Wheelwright contract to exploit the Government silver mines in the coast department.

> Third. All of the silver mines of the Government in the department along the coast are hereby devoted to the payment of the said amortization, for which purpose 40 per cent of the net profit shall be utilized. * * *

The terms on which these mines were to be worked were set out in a subsidiary document, which formed part of the contract. Among the articles which it contained were the following:

> 1. Mr. John Wheelwright shall have a period of three years within which to examine the Government silver mines and find the necessary capital with which to put them in operation, it being his duty to take the necessary preliminary measures to this end as soon as possible. The mines shall remain at the disposal of the concessionary during these three years, and the Government shall enable him to gain actual possession thereof by giving the proper instructions to the authorities. * * *
> 4. The concessionary * * * shall present semiannual balances, on the strength of which, together with the records of the books, the distribution shall be made of the net proceeds, 40 per cent being applied by the Government to the paying off of the debt according to the terms agreed upon in the compromise of this date, and 60 per cent going to the petitioners.
> 5. The Government shall appoint one or more agents to superintend the work performed, who shall be compensated out of the common funds of the enterprise.
> 6. This contract shall last for 25 years, after which time, if there is any residue after paying off the Government debt in accordance with the compromise, it shall be turned over to the Government.
> 7. If, within the first three years or thereafter until the expiration of the 25 years mentioned in the foregoing article, any persons or companies should offer to operate one or more of the mines included in this contract, they may do so provided the present concessionary does not care to undertake the operation thereof, and so states in writing to the Government, or else deliberately neglects to make such statement.

It has already been stated that these Government "estacas" were plots measuring 60 by 30 meters which were marked off on the lode or reef of a mine after those which belonged under the Bolivian law to the discoverer of the mine.

Under the Bolivian decree of the 23d July, 1852, these "estacas" were applied to the treasury of public instruction, but under subsequent legislation the Government was authorized to enter into contracts for the working of the mines for the benefit of the State, and it was under this power that the Government acted when it entered into the Wheelwright contract in 1876.

The parties are not agreed as to the exact nature of the rights which the Wheelwright contract conferred on Alsop & Co. in respect of the Government

mines. The United States of America contend that it amounts to an absolute lease of the mines for a period of 25 years, creating a vested right in the firm to the possession of the mines, which the Government of Chile were bound to treat as the property of Alsop & Co.

On the other hand, the Chilean Government contend that the contract amounted to no more than a contract of "anticresis," which is defined in the Chilean Code as a contract whereby there is delivered to the creditor a real property in order that he may pay himself out of the proceeds (Code, art. 2435). They state that the question of the extent of the rights created by the contract was the subject of litigation in the Chilean courts in the case of the mine "Amonita," that the courts held that the rights so created amounted to a contract of "anticresis," and contend that in a matter relating to real property the decision of the national courts must be final.

The point is only of importance in connection with the question whether the rights of the firm in these various Government mines were rights which could be described as "property" in such sense that Chile was bound, under the modern practice of nations, to respect them as the private property of an individual when by force of arms she acquired possession of the province in which the mines were situated. It is not easy to define the exact nature of the rights which the contract gave to the firm. We can only report to Your Majesty that their nature seems to us to be more accurately described as an "option." The liquidator was entitled, as against the Bolivian Government, to be put into possession of any of the Government "estacas" which he desired to occupy. That the rights of the firm under the contract were no more than an option is, we think, made clearer by article 7 of the document quoted above, under which any person who desired to work one of the Government "estacas" was to be allowed to do so if the firm did not care to undertake its operation and either informed the Government to that effect or neglected to answer. The permit giving the right would have been issued under this article by the Government and not by Wheelwright.

As soon as the contract of 1876 had been made, Wheelwright turned his attention to these mines to see what could be made out of them. The result was not reassuring. His agent admits that he had to contend with a thousand difficulties. People had unlawfully taken possession of the mines; boundary marks had been moved; the documents of title were lost; local authorities were half-hearted, and, in short, up till the time of the Chilean war but little had been accomplished. Furthermore, the mining industry of the district was heavily handicapped by the scarcity of cheap transport and the high freights. Judging from the half-year's reports furnished by Wheelwright to the Bolivian Government during 1877 and 1878, there can be little doubt but that the exploitation of the mines had been carried on at a loss up till the outbreak of the war.

The actual effect of the Chilean occupation of the Province on the mining operations of the firm of Alsop is not very clear; but the Chilean Government states, and so far as can be gathered, correctly states, that Wheelwright was left in possession of all the mines of which he had been able to obtain the control. His position, however, was very materially affected in respect of mines of which he had not been able, up till then, to obtain possession. The obligation of the Bolivian Government to assist him to obtain possession of any particular mine was one they were no longer able to carry out, and the rights of the Bolivian Government to these "estacas" were rights upon which Wheelwright could no longer base his claims to the possession of the mines.

Two decisions in the Chilean courts demonstrated the change which the Chilean occupation had effected. The first was the decision in the case of the mine "Justicia," in an action brought by Wheelwright to recover an "estaca" which had been erroneously included in other mines. Wheelwright claimed that the owners of these latter mines were bound to put him in possession of the "estaca." The court of second instance, on appeal, decided against him on the ground that Wheelwright's contract was, with regard to the mines, one of "anticresis"; that the particular "estaca" to which the suit related had not existed in fact during the Bolivian dominion, and could not now be created; that with regard to it the 1876 contract had not been actually carried into effect by the handing over of the real property, and that his claim therefore failed.

The second decision was one which related to the mine "Amonita," where the action was brought against an occupier in possession, and a declaration was asked for that the mine belonged to the Bolivian State, whose rights Wheel-

wright represented. The court admitted that the "Amonita" was a Government "estaca," but decided that the Government "estacas" were among the Bolivian Government possessions which had passed to Chile; consequently, as Wheelwright's right to the mine was not a real right, but only a right of "anticresis," and as he had not obtained possession his title was not one which a conqueror was called upon to respect, nor did it prevail against a private person who was in possession. Against this decision no attempt was made to appeal.

The effect of these two decisions must have been to deprive Wheelwright of the means of obtaining possession of "estacas" in the occupation of persons with an adverse title. They probably also rendered it necessary for him to work the mines of which he had obtained possession in order to prevent any third party gaining a good title. They did not, however, deprive Wheelwright of the possession of any mines of which he was in occupation.

The deductions which the Government of the United States draw from these decisions are very far-reaching. They contend that the decision deprived Alsop & Co. of private rights which they held under the Wheelwright contract, and constituted a violation of the modern principle of international law, that a conqueror must respect private rights. Upon them is therefore based a claim on behalf of Alsop & Co. to a sum of $508,538.14, made up as follows: $333,823.91 represents the profits which the concessionnaires calculate they would have obtained from certain profit-bearing "estacas" of which they ought to have been enabled to obtain possession; $61,013.43 represents sums expended in working mines to prevent their being denounced by others; $48,340.91 represents expenses of litigation rendered necessary by these decisions; and $65,-359.89 represents expenses of increased working staff rendered necessary in the same way. In all cases these sums include interest calculated up till the signing of the protocol of submission in 1909.

The essence of the United States contention is that the rights of Alsop & Co. to these mines under the Wheelwright contract, whether the firm were in possession of the "estacas" or not, were landed property rights, and that Chile was bound to protect such rights, either by applying Bolivian law to the interpretation of the contract or even by enacting laws for the purpose if her own laws were insufficient, and that, as the "Amonita" and "Justicia" decisions did not protect the rights of Alsop & Co. in the "estacas," these decisions constituted violations of international law for which Chile is liable in damages. No suggestion is made that the decisions were corrupt, and with regard to one of them it has been stated that there was no appeal.

These contentions do not appear to us to be well founded. The right which Alsop & Co. possessed under the Wheelwright contract to work a particular "estaca" was merely a contractual right against Bolivia; until they had secured possession of the "estaca" they had nothing which could fairly be described as "property."

The outbreak of the war and the occupation of the province by Chile deprived Bolivia of these Government "estacas." It also put it out of her power to carry out her obligation under the Wheelwright contract to facilitate the acquisition of the "estacas" by Alsop & Co., but though the "estacas" passed to Chile she did not thereby become bound by Bolivia's contract to put Alsop & Co. into possession; she was under no obligation to facilitate the transfer of the "estacas" to Alsop & Co. in order that they might use them to obtain money for the payment of a debt owing by Bolivia.

Where the rights of Alsop & Co. to a particular "estaca" had been converted into "property" by the firm obtaining possession, their rights were not affected by the "Amonita" and the "Justicia" decisions, except that it might become necessary to work the mine, which, if it were worth working, would have been no injury. Where no possession of a particular "estaca" had been obtained, the firm had merely a contractual right, which the war put an end to so far as regards Bolivia, and which was not valid against Chile.

The decisions of the Chilean courts, therefore, in the cases of the "Justicia" and the "Amonita" do not, in our opinion, afford any real ground for the contention put forward by the United States.

This matter may be regarded from another point of view. Your Majesty is acting as "amiable compositeur," and is free to look at the essence of things without too strict a regard to technicalities, and from that point of view also it appears to us that the claim put forward on this head is not one which should be approved by Your Majesty.

It is to be observed that in respect of the mines of which Wheelwright had obtained possession and which he had worked, the general result, though one or two mines might have been remunerative, was not favorable to him, and with regard to the "estacas," of which he had not obtained possession before the Chilean occupation, it can hardly be assumed, for the purpose of assessing damages, that, even if the imposition of Chilean law denied him the right of entering into possession of other mines which he might possibly have obtained under Bolivian law, the result would have been profitable to him.

Further, it is fairly clear from the facts that whatever might have been the theoretic strength of his position under Bolivian law, he had not in fact been able under that law and administration to obtain possession of the mines which he alleged to be Government "estacas" which were in the occupation of other persons. His complaints to the Bolivian Government on this head show that in fact he was no better off under the Bolivian administration than he was under the Chilean, and there is really nothing to indicate even a probability that he would have obtained possession of these "estacas" if Bolivia had continued in occupation of the territory in which they were situated. So far as it goes the evidence is all the other way.

Chilean law and Chilean administration left him in possession of the mines he had occupied. They did not help him to oust others who were in possession of mines he had not occupied, and which were being worked by other people, and of which under Bolivian law and Bolivian administration he had not been able up till then to obtain possession.

Further, if Your Majesty should be pleased to adopt the recommendation we shall venture to make at a later stage of this report, the principal object of the concession will be satisfied, which was to provide for the repayment of the debt of 835,000 bolivianos and interest. If this obligation be met, we do not think that Wheelwright can substantiate any equitable claim for damages in respect of possible profits he might have made for himself if he had been able to get possession of more of the "estacas." There is really nothing to indicate that such profits would have arisen.

The only plausible ground from his point of view on which to claim damages is that he spent money to prevent strangers acquiring a title by adverse possession, which would not have been necessary if Bolivian law had been applied in the construction of the contract.

If, however, the mines could be made profitable, this involved no hardship and no ultimate loss, and if they were worthless, there was no occasion for him to spend the money, while the requirement itself is reasonable and may be justified as being in the public interest. The claim to retain possession of an "estaca" indefinitely without developing or working it, is one of a very objectionable character, and is not, we think, in accordance with the spirit of the contract itself.

We do not think that, either technically or on grounds of equity, the claimants are entitled to damages under this head, and we can only report to Your Majesty that, in our opinion, the claims put forward by the United States, based upon an alleged wrongful deprivation of the mining rights of the firm of Alsop & Co., should not be admitted.

The Nature of Chile's Undertaking.

The third ground upon which the United States contend that Chile should pay the Alsop claim, is that she has undertaken to do so. Such undertakings are alleged to have been given both to the United States and to Bolivia.

None of the undertakings given directly to the United States, which are enumerated in their case, amount to anything in the nature of a contract or agreement to pay the claim. They can not be regarded as undertakings to pay the claim either in the form in which it is now put forward or in the form in which it was put forward at the time. There is no need to deal with them in detail; many of them are of the vaguest character, others are mere assurances that the claim will be dealt with in the definitive treaty of peace when one is concluded between Bolivia and Chile; others are only announcements that the claim has been provided for in such a treaty, but come to nothing because the treaty in question was not ratified; others relate to the contemplated treaty, which was completed in 1904, and are merely announcements as to what will happen when that treaty is ratified.

The only one which, as we think, needs express mention is the statement made by the Chilean agent before the claims commission which dealt with American and Chilean claims in 1901. The case of Alsop & Co. was brought before that

commission by the United States Government, but the Chilean agent filed a plea to the jurisdiction on the ground that Alsop & Co. was a Chilean firm and that the claim was therefore not within the jurisdiction of the commission, because the treaty gave the commission no power to consider claims on the part of Chilean citizens against Chile.

The commission upheld this view, but in doing so they referred to the following passage in the brief of the agent for Chile:

> The Chilean Government has always regarded it (the Alsop claim) and does still regard it, as a liability on the part of Bolivia toward the claimant; and in order to induce the Bolivian Government to sign the definite treaty of peace which has been negotiated for many years, the Chilean Government offers to meet this and other claims as part of the payment or consideration which it offers to Bolivia for the signature of the treaty.

The commission therefore remitted the claimants to the Government of Chile for relief.

There is in the above passage nothing more than an undertaking to pay the Alsop claim *as a claim against Bolivia* and as part of the consideration for a permanent settlement between the two Governments. This was in effect the attitude of the Chilean Government toward the claim throughout the period which followed the occupation of the coast province of Bolivia. The Chilean Government were aware that the Government of Bolivia could not pay the debt, and they had themselves obtained possession of both the sources to which the claimants were to look, under the Wheelwright contract, for money to pay it off. They were willing, therefore, to take over the liability for that and other claims as part of the general settlement which they desired with the neighboring Republic.

Offers on the part of Chile to pay the claim as a claim against Bolivia can only be made upon the assumption that Bolivia is still liable for the debt, and the question must first be considered whether anything has happened to terminate Bolivia's liability.

Bolivia has not paid the sum which she admitted in the Wheelwright contract she owed to Alsop & Co., but it is suggested in the Chilean countercase that Bolivia had in effect been discharged from liability under her contract by reason of the absence of any effort on the part of the firm or of the United States of America to obtain payment of the debt from her, and bankruptcy and the principle of the limitation of actions are referred to as affording by analogy arguments of substance in support of this view.

It is undoubtedly true that from the time of the Chilean occupation no real effort was made to secure payment of the debt by Bolivia, or even to treat her as the principal debtor, until 1906. But the explanation is not difficult to find. It is the plain fact that Bolivia was not in a position to pay, and no advantage would have accrued from attempts to make her do so.

The principle of the limitation of actions does not, in our opinion, operate as between States. It is based upon the theory that the party had a right of action capable of being enforced by legal proceedings, neglect of which should in time relieve the debtor from further liability, but as against, or between, sovereign States this rule does not apply, and it would be unreasonable that the creditor's rights should suffer because he realizes that his only course is to wait until the financial position of the debtor improves. The liability of Bolivia under the Wheelwright contract remains, in our view, unaffected.

The various undertakings by Chile to Bolivia, upon which the United States of America rely as constituting an obligation upon Chile to pay the claim, are all contained in notes, protocols, or treaties between the two powers which were intended to constitute or to form part of a general settlement and permanent treaty of peace between them. As to five out of the seven such undertakings specified, it is only necessary to state that they never became binding instruments, and they are therefore immaterial.

A permanent settlement was at last effected by the treaty of the 20th October, 1904. Under article 5 of that treaty Chile devoted 2,000,000 pesos in gold of 18 pence to the cancellation of certain specified obligations of Bolivia, among them being "the debt recognized to Don Pedro López Gama, represented by Messrs. Alsop & Co., successors of the former's rights," and 4,500,000 pesos to certain other claims.

Attached to this treaty were a variety of notes and protocols, of which the following bear upon the Alsop claim: By a protocol, dated the 15th November, 1904, Chile was to be free to "examine into, pass judgment upon, and liquidate said credits," and by notes dated the 17th and 21st November, 1904, it was agreed that as the total of the claims, for the settlement of which 6,500,000

pesos were to be paid under article 5, amounted to more than 6,500,000 pesos, that sum was to be distributed *pro rata* among them.

Two other notes of great importance had been signed on the 21st October. These notes were not published at the time, and were almost certainly intended (at any rate by Chile) to remain secret, but they were published in the Bolivian newspapers in the following February, and, since 1906, have not been treated as secret by Bolivia.

The Bolivian note was as follows:

The Government of Bolivia agrees with your excellency's Government on the necessity of determining the purport of the wording of article 5 of the treaty of peace and friendship signed to-day by your excellency on behalf of the Government of Chile and by the undersigned in representation of the Government of Bolivia.

Both in regard to the claims of the Corocoro, Huanchaca, and Oruru companies, and of the bondholders of the Bolivian loan of 1867 which were being paid out of 40 per cent of the receipts of the Arica customhouse, and in regard to the claims against Bolivia of the bondholders of the Mejillones Railroad, of Alsop & Co. (assignees of Pedro López Gama), of the estate of Juan Garday, and of Edward Squire, it has been agreed that the Government of Chile shall permanently cancel all of them, so that Bolivia shall be relieved of all liability, the Government of Chile being obligated to answer every subsequent claim presented either by private means or through diplomatic channels, and considering itself liable for every obligation, bond, or document of the Government of Bolivia relating to any of the claims enumerated, Bolivia's liability being entirely eliminated for all time, and the Government of Chile assuming all liabilities to their full extent.

My Government desires that your excellency may be pleased to state to me, on behalf of the Government of Chile, whether this is the purport which it has given to article 5 of the treaty of peace and friendship signed to-day between the representatives of the two Governments.

I avail, etc. * * *

The Chilean reply was as follows:

In reply to the note which your excellency addressed to me on this day, I take pleasure, in compliance with your request, in defining the purport which this chancellery assigns to clause 5 of the treaty of peace and friendship signed to-day by your excellency in representation of the Government of Bolivia and by the undersigned on behalf of the Government of Chile.

My Government considers that the obligation which Chile contracts by article 5 of the said treaty comprises that of arranging directly with the two groups of creditors recognized by Bolivia for the permanent cancellation of each of the claims mentioned in said article, thus relieving Bolivia of all subsequent liabilities.

It is consequently understood that Chile, as assignee of all the obligations and rights which might be incumbent on or pertain to Bolivia in connection with these claims, shall answer any reclamation which may be presented to your excellency's Government by any of the parties interested in the said claims.

I renew, etc. * * *

The contention put forward in the Chilean case with reference to these notes is that they do not mean that Chile is to take over the whole liability of Bolivia for the capital debt (835,000 bolivianos and interest at 5 per cent), but are intended to insure that Bolivia should be relieved finally from any liability under the Wheelwright contract by the payment of the sum provided in article 5 of the treaty; that their purpose was in fact to insure that Chile should not pay to any of the claimants their proportion of the 6,500,000 pesos without procuring from the claimant a full discharge so that no further claim could be preferred either against Bolivia or Chile.

The arguments which are adduced in favor of this construction are not convincing. The more natural construction of the wording of the two notes is that they were intended to relieve Bolivia altogether of any further liability under these claims whether the proportionate share of the six and a half millions was accepted in final settlement or not, and the more closely the surrounding facts are looked into, the more carefully the details of the long diplomatic struggle between Bolivia and Chile are studied, the stronger does this conviction become.

The treaty of 1904, with its accompanying notes, was a contract to which the only parties were Bolivia and Chile, while the claims were claims by strangers; it is obvious that the rights of such strangers could not be prejudiced by any agreement to which they were not parties. In so far as the claim of Alsop & Co. was a valid claim against Bolivia, it could not be extinguished by an agreement between Bolivia and Chile. Chile undoubtedly might (and did) agree to provide a certain sum in payment of the claim; but if that sum was less than the full amount for which the claim was good the liability for the balance would, unless the claimant was content to waive the balance, remain a burden upon Bolivia.

The fact that Bolivia was poor and Chile was rich would not affect the above argument in the least; it might no doubt have a very potent effect upon the mind of the claimant in considering whether or not to accept the sum offered

in full discharge, because an immediate cash payment of a smaller sum might be worth more than a larger liability which was unlikely to be met, but in the absence of acceptance of the sum offered the liability of Bolivia would not and could not be affected.

It is impossible to read through the abortive treaties which were drawn up between Chile and Bolivia without appreciating the reluctance of Bolivia to part with the sovereignty of her coast province and her determination that, if that province was to be lost, she should be freed from any further liability in connection with certain claims which, to use her own expression, "encumbered the littoral." It is clear also from the contemporaneous documents that Bolivia believed that this had been effected by the treaty arrangements of 1904.

If Bolivia's liability to the claimants was to be extinguished it could only be done by the whole burden of the claim being undertaken by Chile, and this is what appears to be the natural construction and effect of the notes. It is clear from the language that the possibility of the sum not being accepted was contemplated.

The object of Chile in keeping the notes in which this arrangement was embodied secret is obvious. Chile had no desire to pay more than the claims were really worth; if she could ostensibly limit her liability to a particular sum it might be possible to coerce the claimants into accepting the reduced amount, and the fact that the majority of the claimants referred to in the treaty were Chilean citizens would facilitate her so doing. Were she, on the other hand, to undertake full liability for the claims in the treaty it must have been clear to her that she would have to deal with her own citizens upon the same footing as the foreign claimants whose claims were strongly pressed by their own Governments.

The rights which Chile claimed under the protocol of the 15th November to deal with each individual claim upon its merits was to insure that Chile should not be worse off than Bolivia in dealing with these claims. Bolivia would not be bound by the amount which a claimant himself chose to put upon his claim, and under the protocol Chile was to have a like power.

An argument is suggested, but scarcely pressed, in the Chilean case and countercase, that these notes have no validity because they were not included in the ratification, but neither were the later notes nor the protocol of the 15th November, which admittedly formed part of the treaty arrangement.

It would be very dangerous if States were to be at liberty to repudiate notes exchanged by their respective plenipotentiaries appointed to negotiate a particular treaty when those notes had an intimate relation with the subject matter of the treaty and when the action of the plenipotentiaries had not been disavowed by their Governments as soon as it was known. It would be highly inconvenient if secret notes attached to a treaty were obliged to be included in the ratifications.

It is also alleged that Bolivia's liability under the Wheelwright contract can not have been transferred to Chile by these notes because that liability had been discharged by the absence during a prolonged period of any attempt on the part of the claimant to make good his claim against Bolivia. This contention has already been examined and we have stated that we do not consider it to be well founded; but if any such view had been held by the parties at the time, it would render their handling of the Alsop claim in article 5 of the treaty inexplicable.

The fair and reasonable construction of the secret notes is that they were intended to insure that Bolivia should be finally relieved of any liability for the Alsop claim, whether the claimants accepted their share of the 6,500,000 pesos under article 5 of the treaty or not.

Another deduction which may be drawn from the wording of these notes, particularly that of the Chilean note, is that the parties intended that Chile should not merely indemnify Bolivia by repaying to her any compensation which Bolivia should pay the claimant but that Chile should deal directly with the claimants, thus eliminating Bolivia from the transaction altogether. The United States are therefore justified in dealing directly with Chile.

The Bolivian liability which Chile thus assumed can only be the liability which Bolivia recognized under the Wheelwright contract of 1876, i. e., the debt of 835,000 bolivianos carrying interest at 5 per cent. Bolivia could not now be heard to say that she was not liable for the debt which she admitted in 1876, and which she has never paid; nor could she be heard to say that she was liable for the capital and not for the interest. The liability under the 1876 contract is

for the capital debt carrying "interest at 5 per cent not addable to the principal and to be reckoned from the date on which this contract is duly executed."

In our opinion the payment of the debt with interest is consequently now incumbent upon Chile by virtue of the obligation undertaken by the treaty of peace of 1904 as embodied in the treaty and the supplementary notes and protocol.

The subsequent facts need be touched upon but briefly. In December, 1904, and again in 1907, the Chilean Government offered in settlement of the claim a sum which was the *pro rata* share of the 6,500,000 pesos provided in article 5 of the treaty of 1904, adding in the latter case a small sum by way of accrued interest, and explaining also that it was the final offer of Chile, and that, if the claimants were unwilling to accept it, they would be invited to turn for payment to Bolivia.

Both these offers were declined, and in 1908 the State Department at Washington asked whether the Chilean Government would furnish information regarding the case, as there was nothing in the archives of the Department which would justify the offer of a sum which was actually less than the debt admitted by Bolivia in 1876. No such information was supplied, and in April, 1909, the Chilean minister in Washington stated that his Government had no such evidence to produce.

No serious effort is made in either the case or the countercase of the Chilean Government to show that if any liability to pay the claim attaches to them the merits of the claim do not warrant payment in full. It is true that suggestions are put forward that Gama's transactions with the Bolivian Government before 1876 were not such as to justify so large an admission of liability on the part of Bolivia as the debt which was recognized in the Wheelwright contract, but we have already stated that there seems to be no sufficient grounds for going behind that contract. The motives which induced Bolivia to sign it and the question whether it was reasonable for her to do so must be matters of mere speculation. Even if the bargain was a bad one for Bolivia, there can be no doubt but that she did in fact admit liability for the sum there mentioned, and in the view we take of the proper construction of the secret notes attached to the treaty of 1904 Chile agreed to relieve Bolivia of that burden.

It is perhaps worth while to point out that the liability which Chile assumed by those notes was not dependent on the merits of the claim. She did not undertake to pay the claim because she considered it a just claim; she agreed to it as part of the price which she was willing to pay for securing the recognition and acceptance by Bolivia of her title to the territory which she had wrested from that Republic by force of arms; and even if she may consider the sum Your Majesty may be pleased to award large, having regard to all the circumstances, it is certainly small as compared with the advantages of a sure title to a valuable territory.

The indebtedness admitted by Bolivia under article 2 of the Wheelwright contract, which it is now incumbent upon Chile to discharge, was 835,000 bolivianos, with interest, but a question arises whether certain profits from the working of the mines by Alsop & Co. ought not to be deducted from this sum.

The United States admit that profits were obtained from the working of six of the mines, and under article 3 of the Wheelwright contract it might be contended that 40 per cent of these profits should be applied in reduction of Bolivia's debt. The amount of profit admitted in the United States case is $45,095.22.

The great majority of the mines appear to have been worked at a loss; and so far as can be gathered from the accounts printed in the appendices, if the working of the mines is regarded as a whole, a loss ensued.

The power of the Bolivian Government to give the firm of Alsop & Co. the right to work the Government "estacas" under the Wheelwright contract was derived from the Bolivian decree of the 2d November, 1871, which enacted that the working of the mines was to be *in partnership with the State*, the State being considered as an industrial partner and being under no obligation as such to reimburse losses to the partners.

If the working of each individual mine under article 3 of the Wheelwright contract is to be regarded as a separate venture, then losses in respect of any such mine would fall on the firm, while 40 per cent of the profits made at any such mine would go in reduction of the debt.

If the working of the Government "estacas" is regarded as a whole, then a share of the profits made at any particular mine would not go in reduction

of the debt unless the mining venture as a whole was profitable. If, as a whole, the mining venture resulted in loss, the Bolivian Government would not benefit by the profits made at one or two mines.

It is not easy to determine which of these two views is the right one, but it seems to be more reasonable, and more consistent with the intention of the parties, to adopt the latter, and treat the mining venture as a whole.

The accounts of the mining operations of the firm of Alsop & Co. have not been laid before Your Majesty very fully, but the accounts which are printed in the United States case indicate that those operations, treated as a whole, resulted in a loss, and, if that is so, no part of the profits admitted to have been earned at six of the mines would go in reduction of the debt.

We have considered the question whether we ought to report to Your Majesty that further evidence should be called for under the power reserved to Your Majesty in the protocol of submission between the parties. The conclusion at which we have arrived is that it is not incumbent upon Your Majesty to do so.

If Chile desired to diminish the liability which she has undertaken, it was for her to establish that Alsop & Co. made profits out of the mines. Access to the books of the firm has been afforded to her, and she has not availed herself of the offer. In the absence of some proof by her that the firm did make profits out of the mines, we see no reason why Your Majesty should assume it.

The liability admitted by Bolivia was 835,000 bolivianos with interest at 5 per cent from the date of the execution of the contract, i. e., from the 26th December, 1876, that is practically 34 years and 6 months. The amount of the debt at the present time, therefore, is 835,000 bolivianos for the principal, and 1,440,375 bolivianos for interest.

As the debt admitted by Bolivia was payable in bolivianos, the award must be payable in the same currency, or in gold at the current rate of exchange.

We humbly submit to Your Majesty that Your Majesty should be pleased to award that the sum of 2,275,375 bolivianos is equitably due to the representatives of the firm of Alsop & Co.

And whereas, after mature consideration, We are fully persuaded of the wisdom and justice of the said report:

Now therefore We, George, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas King, Defender of the Faith, Emperor of India, do hereby award and determine that the sum of two million two hundred and seventy-five thousand three hundred and seventy-five (2,275,375) bolivianos is equitably due to the representatives of the firm of Alsop and Company.

Given in triplicate under our hand and seal at our Court of St. James, this fifth day of July, one thousand nine hundred and eleven, in the second year of our reign.

GEORGE R. I.

[SEAL.]

CHINA.

JOINT INTERNATIONAL COMMISSION FOR THE INVESTIGATION OF THE OPIUM QUESTION IN THE FAR EAST.

File No. 511.4A1/989.

The Netherlands Minister to the Secretary of State.

No. 216.] ROYAL LEGATION OF THE NETHERLANDS,
Washington, March 10, 1911.

Mr. SECRETARY OF STATE: Referring to my note of November last,[1] relative to the meeting of International Opium Conference, I have the honor to inform your excellency, by order of my Government, that in consequence of objections made by some Governments, the date of the opening had to be changed from May 30 to July 1 next.

My Government hopes that the Government of the United States will see no objection to the change. It would also attach value to knowing before April 15 next whether your Government accepts the conditions put by the British Government in respect to the repression of the morphine and cocaine trades. As your excellency is aware, the last-named Government subjects its consent to participate in the conference to the following conditions:

1. That the Governments concerned shall prepare, before the conference meets, statistical statements of the trade and manufacture of those two products in their countries;

2. That the question of regulating the said trade and manufacture shall be embodied in the program of the conference;

3. That the Governments shall declare their readiness to take vigorous measures to repress the said trade and manufacture.

In consequence of the foregoing I have the honor to beg your excellency to kindly acquaint me with your views on the subject, if not already made known to the Queen's Government.

Be pleased, etc., J. LOUDON.

Acting Secretary of State to the Netherlands Minister.

No. 117.] DEPARTMENT OF STATE,
Washington, March 22, 1911.

SIR: I have the honor to acknowledge the receipt of your note No. 216 of the 10th instant, in which, referring to your note of November last relative to the meeting of the International Opium Conference, you inform me by order of your Government that in

[1] See Foreign Relations, 1910, p. 321.

consequence of objections made by some Governments the date of the opening of the conference had to be changed from May 30 to July 1 next; also that your Government would attach great value to knowing before April 15 next whether this Government accepts the conditions of the British Government in respect to the repression of the morphine and cocaine trades, as the latter Government had consented to participate in the conference on the conditions which you set forth, namely—

1st. That the Governments concerned should prepare before the conference meets statistical statements of the trade and manufacture of morphine and cocaine in their respective countries;

2d. That the question of regulating the said trade and manufacture shall be embodied in the program of the conference;

3d. That the Governments shall declare their readiness to take vigorous measures to suppress the said trade and manufacture.

I am happy to be able to inform you that this Government takes due note of the change of the date of the opening of the International Opium Conference from May 30 to July 1, which is entirely agreeable to this Government; and that the proposals made by the British Government in regard to the manufacture and trade in morphine and cocaine will have its earnest support.

As soon as this Government learned of the proposals of the British Government in regard to morphine and cocaine, Mr. Beaupré, the American minister at The Hague, was instructed on September 27, 1910, to inform your Government of the proposals, and also that the United States was in entire accord with them as being in conformity with resolution 5 of the International Opium Commission. The United States has already completed its examination of the morphine and cocaine questions, and statistics on these subjects are contained in a report, several copies of which have been sent to Mr. Beaupré for transmission to the Netherlands Government.

In addition to the copies of the report sent to Mr. Beaupré for transmission to the Netherlands Government, copies of pending legislation were also sent to him for the same purpose, so that your Government is now fully informed that it is the earnest desire of this Government that the British proposals in regard to the manufacture and trade in morphine and cocaine shall be fully considered in the forthcoming conference.

For your convenience, I take great pleasure in sending you herewith three copies of the above-mentioned report, and three copies each of bills now before the Congress aimed to control the importation, exportation, and interstate traffic in habit-forming drugs; also copies of a bill which is in conformity with resolutions 8 and 9 of the International Opium Commission and applies adequate pharmacy laws to persons subject to the jurisdiction of the United States practicing pharmacy in the consular districts of this Government in China. This bill passed the Senate during the last Congress, but failed of action in the House of Representatives by reason of the great pressure of important matters before that body. The Department has no reason to doubt that it will be enacted into law by the forthcoming Congress.

Accept, etc.,

HUNTINGTON WILSON.

File No. 511.4A1/1111A.

The Secretary of State to the American Minister to China.[1]

WASHINGTON, *April 5, 1911.*

SIR: You will inform the Government to which you are accredited that the President has appointed as delegates to the International Opium Conference which is to meet at The Hague July 1 next the Right Rev. Charles H. Brent, Protestant Episcopal Bishop of the Philippine Islands; Mr. Hamilton Wright, of Livermore, Me.; and Mr. H. J. Finger, of Santa Barbara, Cal. The secretary of the American delegation is Mr. Frederic Huidekoper, of Washington, D. C.

I am, etc.,

P. C. KNOX.

NOTE.—Owing to the inability of certain Governments to prepare for the conference in time for the date mentioned in the foregoing correspondence, July 1, the meeting was postponed to October 1, and again to December 1, as appears below.

File No. 511.4A1/1217.

The Netherlands Minister for Foreign Affairs to the American Chargé d'Affaires.

[Translation.]

No. 19191.] MINISTRY FOR FOREIGN AFFAIRS,
CONSULAR AND COMMERCIAL BUREAU,
The Hague, September 30, 1911.

Mr. CHARGÉ D'AFFAIRES: Referring to the note of his excellency, Mr. Beaupré, of the 11th of August last, I have the honor to notify you that as all the Governments of the interested powers have now accepted the proposals of the British Government, Her Majesty's Government has decided that the conference against the abuse of opium will meet at The Hague on the 1st of December next.

In adding that Her Majesty's minister at Washington has been requested by telegraph to communicate the above to your Government,

I seize, etc.,

For the minister:

HANNEMA.

THE PLAGUE IN MANCHURIA.

File No. 158.931/64.

The Russian Ambassador to the Secretary of State.

[Memorandum.]

IMPERIAL RUSSIAN EMBASSY,
Washington, January 19, 1911.

The bubonic plague in Manchuria threatens to spread not only into the Russian dominions, but into Europe and America. Though

[1] The same to England, France, Germany, Italy, Japan, Netherlands, Persia, Portugal, Russia, and Siam.

effective measures have been taken by the Russian authorities within the conceded zone of the Eastern Chinese Railroad which prevent the epidemic from making any progress, centers of the disease outside that zone are for the latter a constant menace. The measures adopted in these points by the Chinese authorities are neither rational nor efficacious. It is necessary that a joint pressure of the powers be brought on the Chinese Government to induce them to adopt more effective measures against this common peril.

The Imperial Russian Government think that, in the first place, the Chinese should intrust to foreign physicians the care of deciding upon such measures, these physicians to be in the Chinese service. They further are of opinion that it would be highly desirable to agree with the Chinese Government to have an international scientific expedition sent to Manchuria with the object to study the centers of bubonic plague and to report on the progress of the epidemic.

The Imperial Russian Embassy is instructed by telegraph to ascertain the views of the Government of the United States on this subject.

The Secretary of State to the Russian Ambassador.

[Memorandum.]

DEPARTMENT OF STATE,
Washington, January 20, 1911.

The information received by this Government from the American minister at Peking is to the effect that the Chinese authorities are active in efforts to prevent the spread of the plague to the south of the Great Wall; that second and third class travel on the trains south from Mukden has been prohibited; and that a quarantine station in charge of foreign physicians has been established at Shan-hai Kuan.

In view of these facts, the American Government believes that the Imperial Chinese Government will be disposed to adopt any proper measures for the control of the epidemic.

The gravity of the situation is appreciated by the American Government, which recognizes the great danger to life and the serious injury to the commerce of the world threatened by the condition of Manchuria, and this Government is happy, therefore, to find itself in accord with the Imperial Russian Government in its proposal, submitted through the Imperial Russian Embassy at Washington on January 19, 1911, to make such representations to China as may induce that Government to adopt the measures necessary to prevent the spread of the epidemic.

It is the opinion of this Government that the measures to be taken should be determined by plague experts, who should be employed for this purpose by the Chinese Government.

The American Government is disposed to support the proposal for an international commission to study the plague in Manchuria, and believes that the work of such a commission would be of great value to the world.

File No. 158.931/124.

The Prince of Ch'ing to the American Minister.

[Translation.]

FOREIGN OFFICE,
Peking, January 22, 1911.

YOUR EXCELLENCY: I have the honor to inform your excellency that from Harbin and other places in this country there has spread a somewhat alarming outbreak of plague and that my Government has dispatched to these places numerous medical students, specially trained in this branch, not only to take precautionary measures in regard to the disease, but also to study it wherever found.

I received yesterday from the Russian minister, Mr. Korostovetz, a memorandum making the suggestion that the Chinese Government be invited to consider the sending of foreign physicians of different nationalities, specialists in the subject of plague, to the various places where the most serious outbreaks have occurred, in order that they might arrive at the origin of the plague and report as to its progress.

The above project has for its aim the investigation of the plague by medical science and the safeguarding of the lives of the people, and my country is most desirous of taking a leading part therein. I am, therefore, communicating with the different nations to this effect, and now address your excellency with the request that an invitation be transmitted to the American Government to select and send specialists to Manchuria to the seat of the plague, to investigate the same, suggest precautionary measures and methods of cure, making full reports of the results of their work, all being for the advancement of medical science and the protection of mankind. These physicians, being sent on the invitation of the Chinese Government, will have all their traveling expenses defrayed, after their arrival in the Manchurian Provinces, by the said Government.

SEAL OF THE WAI-WU PU.

File No. 158.931/69.

The Russian Chargé d'Affaires to the Secretary of State.

[Memorandum.]

THE IMPERIAL RUSSIAN EMBASSY,
Washington, January 27, 1911.

The Chinese Government has requested the Imperial Russian Government to appoint a physician in order to study the plague centers in Manchuria and to devise means to combat this disease. The physician is to be in the pay of China. A similar request has been also addressed to all the other powers with whom China entertains friendly relations. The Imperial Russian Government has decided to give their assent to this request, as they see in it a way toward bringing about the idea which they have expressed of the expediency of obtaining the consent of the Chinese Government to intrust to foreign specialists the care of researching the causes of the plague epidemic in Manchuria.

It goes without saying that it shall be the duty of the physicians which either the Russian or any other friendly power may send in aid to the Chinese Government to devote their work exclusively to Chinese territory outside the conceded zone of the Eastern Chinese Railroad.

The Imperial Russian Embassy has received telegraphic orders to bring the above to the notice of the United States Government.

File No. 158.931/89a.

The Secretary of State to the Russian Chargé d'Affaires.

No. 209] DEPARTMENT OF STATE,
Washington, February 9, 1911.

SIR: Due to the interest of the Imperial Russian Government in a scientific investigation of the causes of the plague in the Chinese Empire—so very natural owing to the special menace to contiguous territory and the residence of large numbers of Russian subjects at various points along the Chinese Eastern Railway—as displayed in the communication you have made on this subject, I hasten to inform you that in response to the invitation of the Imperial Chinese Government, the American National Red Cross, as the usual agency of the United States in such matters, is placing at the disposition of the Chinese Government Dr. Richard P. Strong, Ph. B., M. D., chief of the biological laboratory, bureau of science, Philippine Government; professor of tropical medicine, University of the Philippines; late surgeon, Medical Corps, United States Army, who will be authorized to make his investigations in such localities and in such manner as the Government of China may desire and in accordance with any coordination of the efforts of other foreign physicians that may be arranged by it at Peking.

In acknowledging your previous communications, it is hardly necessary for me to say that this Government's refraining from a discussion of the question which might possibly be involved in your use of the phrase "conceded zone of the Eastern Chinese Railroad" should in no wise be interpreted as implying any modification of the well-defined views of the United States as to the situation apparently referred to.

Accept, etc.,

P. C. KNOX.

File No. 158.931/89b.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 11, 1911.

Dr. Strong and his assistant, Dr. Oscar Teague, will leave Manila for Peking by the first available transportation, and are to be introduced to the Chinese Government as having been sent by the American National Red Cross, the usual agency of the United States in such matters. Mr. Wilson instructs Mr. Calhoun to inform the Chinese Government that the services of these gentlemen are placed

at its disposition in response to China's invitation to this Government to send specialists.

File No. 158.931/93.

The Russian Chargé d'Affaires to the Secretary of State.

[Translation.]

No. 49] IMPERIAL RUSSIAN EMBASSY,
Washington, February 13, 1911.

MR. SECRETARY OF STATE: The minister of Russia at Peking has received instructions to ask the Imperial Government of China's consent to the adoption of the following measures to be taken with a view to preventing the introduction of the plague epidemic into Siberia:

1st. Establishment of points of sanitary observation on the Chinese bank of the Amur.

2d. Adoption, under the direction of the Russian Administration in the region of the Amur Basin, of coordinate measures against the epidemic along the rivers that run across Chinese and Russian territory.

3d. Sanitary examination, in Chinese ports, of laborers proceeding, by sea, to the Russian Province of the Littoral.

4th. Closing of opium and public houses on the right bank of the Amur facing Russian settlements (towns, villages, etc.) on the left bank.

As these measures have no other object than to combat, jointly with China, the danger to which the plague scourge exposes all the powers and are in nowise invasive of China's sovereign rights, I have, by order of my Government, the honor to bring them to your excellency's knowledge with a request that you kindly inform me whether you are disposed, in accordance with your memorandum of January 20 last, to support with the Peking Government the action the minister of Russia is instructed to take with a view to putting the above-enumerated measures into operation.

Be pleased, etc.,

PRINCE N. KOUDACHEFF.

File No. 158.931/94.

The American Ambassador to Russia to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, February 14, 1911.

Mr. Rockhill says he is informed by the chief of the department of Far Eastern Affairs that the Russian Government is sending a doctor and three assistants to make scientific study of the plague in response to China's invitation, and that while they will be prepared to cooperate with investigators sent by other nations, that they are in no way under the authority of the Chinese Government.

File No. 158.931/93.

The Acting Secretary of State to the Russian Chargé d'Affaires.

No. 213.] DEPARTMENT OF STATE,
Washington, February 17, 1911.

SIR: I have the honor to acknowledge the receipt of your note of February 13, 1911, informing me that the Russian minister at Peking has been instructed to ask the consent of the Imperial Chinese Government to the adoption of certain measures designed to prevent the spread of the plague from Manchuria into Siberia, and requesting to be informed whether the American Government would be disposed to support the action which the Russian minister at Peking has been instructed to take.

In reply I have the honor to state that the American Government, in harmony with its memorandum of January 20 last, is disposed to give its cordial support to the Imperial Russian Government in its endeavors to obtain the consent of the Chinese Government to cooperate with Russia in the adoption of reasonable measures, not invasive of China's sovereign rights, solely designed to prevent the spread of the plague from Manchuria into Siberia.

Accept, etc.,

HUNTINGTON WILSON.

File No. 158.931/162.

The American Minister to the Secretary of State.

[Extract.]

No. 196.] AMERICAN LEGATION,
Peking, March 6, 1911.

SIR: I have the honor to inform the Department that Dr. Strong, the American representative to the International Medical Congress for the scientific investigation of the plague, to be held at Mukden beginning April 3, 1911, arrived at Peking on the 25th ultimo. Dr. Strong is accompanied by an assistant, Dr. Teague.

Though the program for the conference is not yet formulated and while the Chinese Government expressed the hope that the delegates would not engage in active antiplague work and would not proceed to Manchuria until near the opening of the conference, yet as Dr. Strong was urged by the Red Cross Society to hasten to the scene of the epidemic, so that he might study plague conditions on the spot and make scientific investigations of actual cases before the conference meets, these doctors were extremely anxious to proceed to Manchuria at the earliest possible moment, especially as the late reports therefrom were to the effect that the plague was rapidly disappearing. I accordingly called informally at the foreign office on the 17th ultimo and apprised them of the desire of our doctors to proceed at once to the affected area and the reasons therefor, when I was informed that the foreign office had changed its mind and saw no objection to their proceeding at once; in fact, the foreign office would for political reasons welcome their departure. The foreign office immediately telegraphed the viceroy at Mukden.

In the event of the death of any of the delegates the Chinese Government will, I am informed by the foreign office, certainly indemnify the families. The present rule in the event of deaths of foreign doctors employed in plague work for China is to give their families 10,000 taels each.

I have, etc.,

W. J. CALHOUN.

The American Minister to the Secretary of State.

No. 236.] AMERICAN LEGATION,
Peking, May 8, 1911.

SIR: In continuation of my No. 228, of April 26, 1911,[1] reporting the termination of the International Plague Conference at Mukden, I have the honor to inclose herewith copy of a communiqué issued on the 4th instant by the Wai-wu Pu, giving a summary of the results of the conference. It may interest the Department to know that this memorandum was drafted by Dr. Strong, the American delegate, at the request of Mr. Alfred Sze, the Imperial Chinese commissioner to the conference. There is also inclosed copy of a note, dated the 5th instant, addressed to me by Prince Ch'ing, wherein he expresses appreciation of the Chinese Government for American participation in the conference and asks that this message of thanks be conveyed to you. Several prominent Chinese officials in conversation with me recently commented on the splendid representation of the American Government and the Red Cross Society at the conference and expressed the highest appreciation of the services rendered by Dr. Strong. I can safely state that Dr. Strong is generally regarded by Chinese and foreigners alike as having done the most valuable work at the conference. He leaves to-day for Manila, where he will edit the proceedings of the conference, which will be published several months hence by the Government press at Manila.

Upon arriving at Manila Dr. Strong will prepare and forward direct to you for transmission to the Red Cross Society a detailed report on the conference proceedings. Along with this report Dr. Strong will transmit for your information some pertinent observations on the political aspects of the conference.

I have, etc.,

W. J. CALHOUN.

[Inclosure—Translation.]

The Prince of Ch'ing to the American Minister.

PEKING, *May 5, 1911.*

YOUR EXCELLENCY: On the occasion of the convening of the Plague Conference your excellency's Government selected and sent to Mukden a medical expert, who assisted in the investigations into the nature of the plague and regarding preventive measures in such a way as to throw great light on the matter.

My board is extremely grateful. Now that the conference is ended, I send this note to your excellency to express our thanks, which I beg your excellency to convey to the American Government.

SEAL OF THE WAI-WU PU.

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[1] Not printed.

[Inclosure.]

[From the Peking Daily News, May 5, 1911.]

THE RESULTS OF THE INTERNATIONAL PLAGUE CONFERENCE OF MUKDEN.

[Official statement by the Wai-wu Pu.]

The following communiqué has been issued by the Wai-wu Pu:

The opening ceremony of the International Plague Conference took place in Mukden on April 3, and the closing ceremonies were performed on April 28. The original intention of the Government in the organization of the conference and in extending an invitation to scientists from the different countries represented to participate in the work of the conference was to obtain further information regarding epidemics of pneumonic plague which would be of value both to this Empire and to the world at large. The work of the conference was divided into two sections, (1) epidemiology and (2) bacteriology. In all, 23 sessions were held. The original program, which was most comprehensive in outline and which covered practically every point in connection with the investigation of the pneumonic plague, was fully carried out.

During the last week of the sessions the time was devoted to the framing of the provisional conclusions and of recommendations. These conclusions and recommendations will be published with the final report of which they are a part.

Among the more important conclusions and resolutions of the conference the following are mentioned: The disease spread by direct infection from man to man, and whatever may have been its primary origin there is no evidence that a concurrent epizootic in rodents played any part in its general dissemination. From Russian medical sources it has been reported that an epizootic disease exists among Tarabagans and that it is not unlikely that this disease is plague; but that it is plague has never yet been proved bacteriologically, and this question needs further study.

The chief factor in the decline of the epidemic has probably been the preventive measures which were enforced either in accordance with scientific methods or by the efforts of the people to protect themselves. The decline has not been due to any loss of virulence of the bacillus.

Infection was introduced into towns and villages by persons actually suffering from plague or by those in the incubation stage of the disease. There has been no positive epidemiological evidence to show that the disease has been spread by clothing, merchandise, or other inanimate objects.

The epidemic has been almost without exception one of primary pneumonic plague. The incubation period varies as a rule from two to five days. A rise in temperature and an increased pulse rate are usually the earliest symptoms observable, but a diagnosis can not be made until the organisms are recognized and the sputum has become characteristically bloodstained. An accurate diagnosis can be made only by a bacteriological examination of the sputum with the view of excluding pneumonic infection due to other microorganisms. Since the evidence points to the conclusion that in the epidemic all the cases became septicæmic, an examination of the blood microscopically or culturally may be a valuable aid in diagnosis. The physical signs of lung involvement are too indefinite and appear too late in the course of the disease to be of diagnostic value, and even in cases in which the condition of the person is grave they may be very slight.

The fatality of the disease during the past epidemic has been extremely high, scarcely any cases of recovery having been reported. The general experience has been that no method of treatment has been of any avail in saving life, but the serum treatment seems in a few instances to have prolonged the duration of the illness.

The strain of bacillus isolated during the past epidemic has differed in no essential respect from strains of the Bacillus pestis previously isolated from other sources. So far as can be ascertained the only infective agent in the epidemic has been the sputum from the plague patient. In the majority of the cases the disease has been contracted by the inhalation of plague bacilli in droplets of sputum (so small as to be visible only by the microscope), causing infection of the lower portion of the trachea and bronchi. In the case of inhalation the risk to the person exposed bears a direct relation to his proximity to the patient and the duration of exposure.

In view of the special danger of infection by inhalation that has been manifest during the past epidemic, masks and goggles should be worn by all those who come in contact with cases of the disease or suspected cases. The best form of mask is a simple three-tailed gauze and cotton wool pad, which should be destroyed or disinfected after each exposure to infection.

The statistics which have been collected during the past epidemic did not allow of any definite conclusion about the value of active prophylactic inoculation against plague pneumonia, although it was argued that some degree of protection is conferred against bubonic plague by the use of vaccines. It was recommended that further experiments be made on animals in reference to securing immunity against pneumonic-plague infection.

A number of resolutions relating to the question of sanitation and disinfection were also presented. * * *

The evidence before the conference was to the effect that it is unnecessary and undesirable in respect to pneumonic plague to restrict the transit of goods (other than personal luggage) and of mails. Should there be evidence at any subsequent time of an epizootic in rats it would become necessary to take measures to destroy the animals.

The services of the Imperial Commissioner Sao-Ke Alfred Sze have been greatly appreciated. He has outlined the principles to be followed at the conference in his opening address to that body and in other ways directed its care. The Government also appreciates the fact that the period of the epidemic was short, and acknowledges the assistance of both foreign and Chinese doctors who volunteered their services for the purposes of combating the epidemic.

NATURALIZATION OF CHINESE BY OTHER GOVERNMENTS.

File No. 893.012/6.

The American Consul at Foochow to the Secretary of State.

AMERICAN CONSULATE,
Foochow, April 3, 1911.

SIR: I have the honor to inclose herewith for your information, copy of translation of a despatch recently received from bureau of foreign affairs at this port, concerning the Chinese regulations regarding naturalization of Chinese by other Governments, and also a copy of my reply to the commissioner of foreign affairs.

I have this day sent a copy of the same to the United States Legation at Peking, but regard it important that you should have the same without delay.

I have, etc.,

SAMUEL S. GRACEY.

[Inclosure 1.]

The Comissioner for Foreign Affairs to the American Consul.

No. 12690.]

FOOCHOW, CHINA, *March 27, 1911.*

SIR: I have the honor to state that the certain relations which nationals bear to their country, and the obligations they owe their Government, have warranted the making of a code of nationality. Owing to the increased facilities in communication and traveling in the modern world, people may change their domicile and allegiance at will. Nobody is, however, allowed to change his allegiance in an eccentric manner, as he pleases, without observing the law of expatriation of his old nation, and that of naturalization of the country of which he intends to become a citizen. The Chinese code of nationality was promulgated on the 7th day of the intercalary 2d moon, Heuan Tung 1st year

(March 28, 1909). It is stipulated in the eleventh article that any Chinese subject desiring to become a foreign national shall make application for approval of his expatriation, and in the eighteenth article that the applicant for expatriation shall tender his application to the local authorities of his native district that the latter may request their chief officer to forward the application to the ministry of the interior for its approval, which will be posted on the bulletin board, and that no matter what conditions the applicant may be in he will be regarded as still owing allegiance to the Chinese Government until he obtains sanction to his application. It is also provided in the first article of the executive regulations that any Chinese who renounced allegiance to China, and became a foreign national, before enactment of this code, without official approval, and who has hitherto been residing in a foreign nation, on coming back to China shall report the fact to the consul concerned at the first Chinese port he enters, that the latter may send a communication to the Chinese local authorities, giving necessary particulars as well as the day, month, and year of his naturalization, which will be regarded as an evidence of his expatriation. In the second article of the above quoted regulations, it is provided that any Chinese who became a foreign national, without obtaining an authentic approval of his expatriation, and who has been residing in the foreign settlement of a Chinese treaty port, shall within one year report the fact to the Chinese authorities, that the latter may communicate with the consul concerned, to find out the date of his naturalization so as to establish an evidence of his expatriation. In the third article it is provided that any Chinese omitting to produce the evidence of his expatriation as is described in the two foregoing articles, shall be regarded as still owing allegiance to the Chinese Government, as other Chinese subjects do. Strict is the law for governing the people in the Empire, in order that in time of emergency bad characters may not falsely claim to be foreign nationals. China is not the only country that has adopted this strict law.

Attention may be invited to the following quotations from the "Digest of the International Laws of Europe and America":

> Any person desiring to change allegiance must expatriate himself from his old country, and without a certificate of the Government of his old country to say that he is free from all lawful obligations the Government of the country of which he desires to become a national can not naturalize him.
>
> In case of double allegiance of any person, or noncompletion of the procedure in his expatriation, the country of his origin may claim from him obligations as hitherto and the other country can not at once succeed the former in claiming him as a citizen.
>
> Applicant for naturalization should have done nothing against or injurious to the Government of the country of his origin.

In every country there may be many items of law concerning naturalization and expatriation, but the certification of good character is generally considered as the most important feature.

Taking all the preceding points into consideration, it may be concluded that the Chinese code of nationality does not allow her people to falsely claim themselves to be citizens or subjects of foreign nations, and that, according to the stipulations of the international laws, or the laws of the various nations, no naturalization can be so easily effected as this. Among the natives of Foochow and Amoy in Fukien, two of the earliest ports opened to foreign commerce, there are many who have taken new domicile in foreign countries, and the nationality thereof as warranted by the development of commerce. But some bad characters living in the interior (or within the limits of Chinese dominion) and wishing to implicate themselves in lawsuits, oppose taxation, or enjoy immunity of likin and other taxes, or trying to do something to suit their own convenience and for their own benefit against the law, apply at such juncture for admittance to a foreign citizenship, and as soon as they obtain their certificate of naturalization by deceit they rely upon it as their shield and behave in a reckless manner, outraging all propriety. It is a fact that they seek foreign protection by becoming foreign nationals for purposes injurious to their old country (China). This is not only inconsistent with the common law and justice but is also apparently against the Chinese law in force. It is believed that none of the civilized countries will accommodate such bad characters in such a way as to bring disgrace to their nationals. The Chinese code of nationality has been promulgated, and if any diplomatic question connected with nationality should arise in future it can of course be taken as authority to settle the question. The one year's time allowed in the code has expired long ago and none of the Chinese who expatriated themselves and took foreign nationality before the issuance of this code and without official approval has yet presented

any evidence, as is stipulated in the first and second articles of the above-quoted Executive regulations. Fearing that the said Chinese might not have a thorough knowledge of the said stipulations, I deem it incumbent upon me to address to your honor this dispatch, and your honor will please instruct the said naturalized citizens all to note the contents. Those naturalized citizens at present residing within the limits of the treaty ports of Foochow and Amoy should be instructed to report at once to the Chinese authorities in the manner described in the regulations, that the latter may take action according to the stipulations. The said naturalized citizens shall make no longer delay.

I also request that your honor kindly first send me a list of the said naturalized citizens, giving their total number, and the day, month, and year of naturalization of each individual.

As regards the expatriation of Chinese, the commissioner of police and myself will issue a joint proclamation instructing the concerned to act according to regulations. If any bad character disobeys the law, implicates himself in lawsuits as described above, or refuses to pay taxes and duties, and falsely claims to be a foreign national in an emergency, he will be severely dealt with according to the Chinese law as soon as his crime is detected. I make this point plain to your honor, and trust that your honor will kindly let me have a reply, to which I will attach much importance.

[Inclosure 2.]

The American Consul to the Commissioner for Foreign Affairs.

No. 2330.]

FOOCHOW, *April 3, 1911.*

SIR: I have the honor to acknowledge the receipt of your dispatch dated March 27, 1911, re the Chinese code of nationality, and in reply would say that the law of the American Government prohibits the naturalization of Chinese in the territory of the United States; and that I am forwarding a copy of your dispatch to the American Legation at Peking. I will communicate with your honor again on the subject, when I receive a reply from the legation.

I have, etc.,

SAMUEL L. GRACEY.

The Secretary of State to the American Consul at Foochow.

No. 218.]

DEPARTMENT OF STATE,
Washington, May 16, 1911.

SIR: The Department has received your dispatch of the 3d ultimo, transmitting a copy of a letter to you of March 27, 1911, from the bureau of foreign affairs at Foochow in regard to the naturalization of Chinese as citizens of other countries and a copy of your reply of April 3.

There have already been a number of cases in south China in which Chinese who had been naturalized as citizens of Hawaii prior to its annexation to this country, and who had become citizens of the United States through the annexation, have had to establish their citizenship. The Chinese law of naturalization should be brought to the attention of all such citizens in China and the Chinese authorities duly notified that they are American citizens, unless they have expatriated themselves under the provision of the second paragraph of section 2 of the act of March 2, 1907. In this connection you are referred to the Department's circular instruction of May 13, 1908, entitled "Expatriation and Protection of Americans in China."[1]

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[1] See Foreign Relations, 1908, p. 1.

This matter is evidently one which should be taken up by the legation at Peking, and the Department has noted your statement that a copy of the letter from the bureau of foreign affairs has been sent to that office. A copy of this instruction is being sent to the legation.

I am, etc.,

P. C. KNOX.

File No. 893.012/7.

The American Chargé d'Affaires to the Secretary of State.

No. 271.]

AMERICAN LEGATION,
Peking, June 30, 1911.

SIR: The legation has the honor to acknowledge the receipt of the Department's number 134 of May 16, 1911,[1] inclosing copy of an instruction of the same date to the American consul at Foochow regarding the naturalization of Chinese as citizens of other countries.

Although it is true, as stated in the letter of April 3, 1911, to the Fukien bureau of foreign affairs by the American consul at Foochow, that the American Government prohibits the naturalization of Chinese, yet all the vexatious problems connected with double nationality are liable to arise between the Chinese and American authorities, as has been proven by several cases within recent years at Canton, notably that of Wong Chow, owing to the fact that large numbers of Chinese who had been naturalized as citizens of Hawaii prior to its annexation to the United States in 1898, were, by the law of April 30, 1900, recognized as citizens of the United States.

The general provisions of the Chinese law of naturalization of March 28, 1909, in so far as they refer to the future naturalization of Chinese, are of no especial interest to Americans, but the Executive rules appended to the law apply to the already naturalized Hawaiian Chinese. It seems to the legation that this law, together with the rules, should be brought by the consuls to the attention of all such American citizens in China and the Chinese authorities duly notified that they are American citizens, unless they have expatriated themselves under the provisions of the second paragraph of section 2 of the act of March 2, 1907. In this connection, the consuls should be referred to the Department's circular instruction of May 13, 1908, entitled, "Expatriation and Protection of Americans in China."

Executive rules 1 and 2 refer to the notification of the Chinese authorities by the consul and by the person concerned, when a naturalized Chinese returns to China. Rule 3 provides that the naturalization will not be recognized by the Chinese authorities unless such notification is sent in. I am of the opinion that it would be advisable to conform to the provisions of rules 1 and 2 so far as convenient, but always with the reservation that in case of failure to do so, the American Government can not admit the right of the Chinese Government to question the American status of any regularly naturalized citizen.

[1] Not printed.

Rule 4 stipulates that any naturalized Chinese who buys land in the interior of China or otherwise avails himself of the rights properly limited to Chinese subjects shall be considered to have divested himself of his foreign nationality by the act. As under the treaties a foreigner, other than a missionary, has no right to purchase land in the interior, this rule is scarcely objectionable in principle. Our consuls might therefore be instructed to regard any such action on the part of a naturalized Chinese as prima facie evidence that he had renounced his American nationality. It would seem important, however, that this rule should be so modified or enlarged as to contain a provision covering the case of land the title to which vests by descent to a Chinese who has been naturalized as a foreigner, allowing a reasonable time, say one or two years from the date of the deaths of the ancestor, during which time the heir shall dispose of the estate or take proper steps to resume his original (Chinese) nationality. Such a clause would safeguard the rights of Chinese of this class in such cases. In any case, according to the act of Congress of March 2, 1907, the continued residence of a naturalized Chinese in China for a term of two years would cause him to revert to his Chinese nationality, unless he were able to prove that conditions (*a*), (*b*), or (*c*) of the Department's circular instruction entitled "Expatriation," of April 19, 1907, applied to his case.

Rule 5 provides that enrollment as a Chinese official involves expatriation from the foreign nationality, while rule 6 provides the means for a naturalized Chinese to apply to resume Chinese nationality. To these two rules it would seem that the American consular officials need offer no objection.

Rule 7 provides that Chinese who were born and have resided in foreign countries may, if they so desire, be regarded as Chinese subjects. The American Government recognizes the right of the child of an alien born in the territory of the United States to elect his nationality on coming of age, either choosing to be an American citizen or following the nationality of his parents. The danger in applying rule 7, loosely worded as it is, will be that children born in the United States of Chinese parentage may claim to be Americans in America and to be Chinese in China.

I think that our consuls should record and report both to the Department and to the local native authorities as completely as possible any such cases, so as to prevent such native-born American Chinese from exercising a double nationality.

Rule 8 provides that *naturalized Chinese* may be expelled from the interior. This may be admitted by American consuls with the reservation that any naturalized Chinese has the same right as any other American citizen to travel in the interior, if provided with an American passport. The provision of this rule should also be modified so far as it relates to those naturalized Chinese who may have inherited property in the interior, a condition discussed under rule 4.

Rules 9 and 10 apply only to those who have been naturalized after the promulgation of the Chinese law of 1909, and, it is believed, are therefore of no interest to American officials.

In regard to the status of Chinese in the Philippine Islands the decisions of the Department of State indicate that birth in the islands of Chinese parents does not entitle the child so born to be considered a citizen of the Philippine Islands. Only Chinese who had been

naturalized as Spanish subjects prior to the annexation of the islands by America, with their children, are entitled to recognition by American officials as citizens of the Philippine Islands, and the remarks concerning Chinese-American citizens of the Hawaiian Islands would apply equally to them as regards their relation to the Chinese authorities.

I would be pleased if the Department would inform me at an early date of its views on this law and the appended rules, copies of which are inclosed in the legation's No. 1143 of April 19, 1909, and instruct me concerning the proposed directions to our consuls in China, as contained herein, the issuance of which I beg to suggest might be found advisable. In this connection, I beg to call attention particularly to rules 4 and 8 and my comments thereon, and to request specific instructions as to whether I should address the Chinese foreign office, asking that these rules be so amended, or at least be given such an interpretation, as to prevent any possible hardship to Chinese Americans who may have inherited landed property in the interior of China.

In reporting this subject I should also state that I am informed by the American consul at Foochow that of the foreign consuls the British, German, and Russian have entirely ignored the Chinese circular; that the Japanese consul, in referring the matter to Tokyo, deprecated compliance with the rules; and that the French consul has referred the question to his legation here. Of the ministers here whom I approached on this subject, the few who professed to be aware of the existence of this Chinese circular, were all of the opinion that the matter might well be ignored for the present. Should the matter, however, be of importance to us it would seem that the other leading treaty powers represented here would have scarcely less interest in the matter than we have. Should the Department so desire, I would be glad to ask the other legations here to cooperate with ours in seeking to obtain a satisfactory adjustment of this question.

I have, etc.

PERCIVAL HEINTZLEMAN.

The Secretary of State to the American Chargé d'Affaires.

No. 184. DEPARTMENT OF STATE,
Washington, October 18, 1911.

SIR: The department is in receipt of the legation's despatch No. 271, of June 30, 1911, in regard to the Chinese nationality law of March 28, 1909, and the Executive rules appended thereto. In this despatch attention is called to the fact that the provisions of this law may affect Chinese who had been naturalized as citizens of Hawaii prior to its annexation to the United States in 1898, and were collectively naturalized as citizens of the United States under the law of April 30, 1900; also Chinese claiming citizenship of the United States through birth within the territory and jurisdiction thereof, and those who allege that they were residing in the Philippine Islands as subjects of Spain on April 11, 1899, and were still residing there on July 1, 1902, so that they are to be considered citizens of the Philippine Islands and as such entitled to the protection of the

United States, under the provision of the act of Congress of the date last mentioned.

In regard to the class of persons first mentioned, and with especial reference to sections 1 and 2 of the Executive rules referred to above, the Department approves the suggestion of the legation that consular officers should be instructed by the legation to advise such persons as opportunity arises that they should apply for registration as American citizens. If their registration is approved, the consul should then communicate this fact to the local Chinese officials. In determining the status of these persons, the consuls should require those who have been residing continuously in China for two years or more to produce evidence to overcome the presumption of expatriation arising under the second paragraph of section 2 of the act of March 2, 1907, and in this connection the circular instruction of May 13, 1908, should be consulted. With reference to the provision of Executive rule 3, it may be said that this Government does not concede that failure to comply with its requirements is conclusive evidence of abandonment of American citizenship.

Rule 4 provides as follows:

> Any Chinese who have renounced their nationality without permission and have been naturalized in foreign countries before this law came into effect, who live in the interior or who have bought or otherwise obtained real estate in the interior and who are enjoying the rights of Chinese subjects, will be considered Chinese subjects.

The legation's suggestion that the Chinese Government be asked to so amend or interpret this rule as to prevent any possible hardship to Chinese naturalized as American citizens, who may have inherited or may inherit landed property in the interior of China, is approved. The Department desires, therefore, that you avail yourself of a suitable opportunity to bring this matter to the attention of the foreign office and inquire, with reference to this rule, whether an arrangement can not be made whereunder these Chinese-Americans may be allowed a reasonable time to dispose of property inherited by them.

Rule 7 provides as follows:

> All Chinese who were born and have lived in foreign countries before this law came into effect may, if they so desire, be regarded as Chinese subjects.

In order to prevent Chinese persons born in the United States from claiming American or Chinese nationality according to convenience, the consuls should give them an opportunity to register as American citizens, and when they have done so should inform the local Chinese authorities as well as the Department.

As to Chinese born in the Philippines and claiming the right to American citizenship, under the provision of the act of July 1, 1902, each case must be decided according to its peculiar facts. In this connection I inclose for your information a copy of a letter of September 11, 1911, to the Secretary of War, in regard to the citizenship of José Velasco.

Owing to the disturbed conditions prevailing at present in various parts of China, the Department leaves to your discretion the determination of an opportune moment for the issuance of these instructions to the American consular officers in China; you may also decide the time and manner of presenting to the Wai Wu Pu the matter of

landed property in the interior inherited by naturalized Americans of Chinese extraction.

I am, etc., P. C. KNOX.

[Inclosure.]

The Acting Secretary of State to the Secretary of War.

DEPARTMENT OF STATE,
Washington, September 11, 1911.

SIR: The Department has received your letters of July 20, August 8, and August 19, 1911, in regard to the citizenship of José Velasco, a resident of the Philippine Islands. Accompanying your letter, first mentioned, are copies of the opinions of the attorney general of the Philippine Islands and the law officer of the Bureau of Insular Affairs, both of which concur in recommending that José Velasco be granted a passport as a citizen of the Philippine Islands owing allegiance to the United States.

It appears that Velasco's father, a native of China, had been domiciled in the Philippines for more than 50 years, and José Velasco has resided there continuously since his birth at Manila, 24 years ago. Both father and son are baptized Christians (Roman Catholics), and neither is inscribed upon the Chinese registry at Manila as a Chinese citizen or upon the Spanish registry for the purpose of originally establishing Spanish citizenship, or under the provisions of the treaty of Paris. The father acquired a large fortune in the Philippines, consisting of both real and personal property, and the son is engaged in business at Manila in connection with his father.

The law of Spain (art. 2, royal decree of Nov. 17, 1852) provides that "foreigners who have obtained naturalization papers *or acquired residence in accordance to law* are considered as Spaniards." By the Spanish law of September 18, 1870, published in the Official Gazette of Manila, it is declared that "foreigners acquiring naturalization papers *or residence according to law in any town of the Spanish Provinces beyond the seas are considered as Spaniards.*"

Law 3, Title 11, Book 6, of the "Novísima Recopilación" provides that—

> The following must be considered as residents: Any foreigner that has been naturalized; everyone born within these Kingdoms; every convert to the Catholic faith in said Kingdoms; he who is self-supporting and establishes a domicile therein; he who asks for and obtains a residence in any town; he who marries a native woman of this Kingdom and resides with her herein, and if the woman is a foreigner who marries a native man by such fact she acquires the domicile of her husband; he who settles in the country after buying immovable property and possessions; he who being a workman comes to live in and follow his vocation herein and in the same manner, he who lives herein and performs manual labor or has a retail shop; he who has the office of a public counsel, honorary, or any other office of any kind which the natives only can hold; he who enjoys the benefits of the pastures and other commodities which are proper to the natives; he who is a householder for 10 years in these Kingdoms; and the same of all other cases in which, in accordance with the common law, the royal orders, and other laws the foreigner acquires naturalization and residence, and where, in accordance with them he is liable to the same taxes as natives for the legal and fundamental reasons of enjoying the same advantages as they do, etc.

The Department has not at hand the means to determine whether this law is applicable to the Philippines. But the attorney general of the Philippines states that it is; and assuming that his statement is correct, there would appear to be no question that the elder Velasco acquired residence in the Philippine Islands, became a Spanish subject, and was such on April 11, 1899.

The Spanish Civil Code (art. 18), which was promulgated in 1889, declares that "children, while they remain under the parental power, have the nationality of their parents." The Spanish law of November 17, 1852, and the law of 1870, referred to above, which governed the subject before the promulgation of the civil code, both recognized the principle that children follow the nationality of the father. It follows that the nationality of José Velasco, who was a minor on April 11, 1899, was the same as that of his father. It may be observed also that article 17 of the Spanish Civil Code declares that persons born in Spanish territory are Spaniards.

José Velasco has made application to the Governor General of the Philippine Islands for a passport and has subscribed the oath of allegiance to the United States as required by the rules. This Department concurs in the opinion of the attorney general of the Philippine Islands and the law officer of the Bureau of Insular Affairs that Velasco is a citizen of the Philippine Islands, and as such

entitled to the protection of the United States by virtue of the provisions of section 4 of the act of Congress of July 1, 1902, which provides:

That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight.

I have, etc.,

HUNTINGTON WILSON.

ILLEGAL TAXATION OF FOREIGN PRODUCTS IN MANCHURIAN PROVINCES.

File No. 693.116/46.

The American Minister to the Secretary of State.

No. 124.] AMERICAN LEGATION,
Peking, November 22, 1910.

SIR: I have the honor to bring to the notice of the Department the numerous complaints which are being made, particularly in the Manchurian Provinces, regarding the imposition of illegal taxes on foreign products after passing into Chinese hands. The charge has been made, notably by the Standard Oil Co., of the frequent petty taxes to which their products have been subjected, in spite of the payment of the customary surtax. While the legation has endeavored to settle such abuses where possible by local means, and has instructed its consular representatives to seek cooperation with their colleagues whose nationals suffer similarly, it would withal be too optimistic to hope that such remonstrances alone will suffice to correct this evil which is now engaging the attention of the diplomatic body. At the present the latter is endeavoring to ascertain the precise nature of these taxes, since it is quite possible that a close understanding of the same will facilitate the settlement of a somewhat complicated question.

While these taxes vary considerably at different localities, the following are among those described by the Newchwang agency of the Standard Oil as exacted at Kirin, where the abuse appears to be the greatest:

The hill and sea tax, 15 candareens per case; seven and four li tax, equals 0.011 per cent on value; business on sales 1 per cent; then there is a small tax for writing out a receipt for the payment of the hill and sea tax.

The Chinese argument to justify such taxation is, that while the payment of the customs surtax protects the goods during their period of transit until their place of destination, after the latter are sold to Chinese subjects, and when the latter sell to each other, they must pay the inland taxes according to regulations. Needless to say this view has so far been strenuously resisted by all foreign interests concerned.

It is obvious that though additional direct taxation on foreign goods may perhaps be prevented by strenuous diplomatic action, other means could be found to accomplish the same result. Were an income tax, for instance, feasible in China, the revenue derived from

the sale of foreign goods could not properly be separated from that obtained by the sale of native products. Moreover, at a time when both the Central and Provincial Governments are in such urgent need of revenue, it would seem inequitable to take refuge in the strict interpretation of treaties, which could always be circumvented by indirect taxation. Under the existing conditions it would rather seem the part of wisdom to arrive at a mutual understanding which would do away with the more onerous and annoying aspects of the present taxation at the same time as it afforded a proper source of revenue for China. The Department will remember that a consumption tax is provided for by section 8 of the British commercial treaty of 1902 and perhaps implied by a paragraph in Article IV of our own treaty of 1903, as follows:

> Nothing in this article is intended to interfere with the inherent right of China to levy such other taxes as are not in conflict with its provisions—

together with the interpretation given to this by the Chinese treaty commissioners. (See Treaties between China and Foreign States, 1, 553.) The argument in favor of further taxation is, therefore, not without some ground and it would seem both impolitic and inequitable to resist it altogether. Should you approve, the legation will use its best efforts to seek a solution, subject, of course, to your final approval, on a basis more friendly to Chinese fiscal interests than is comported by the present attitude of hostility to any and every form of local taxation. In this, as in other instances, I feel satisfied that we can safely leave the onus of combating any attempts at exacting exaggerated taxation to the powers more keenly interested than ourselves and confine our own efforts to the part of a mediator between the Chinese and such nations. In the meantime this will not prevent the legation taking all proper measures to seek to remedy such abuses as occur. (See Inclosure.)

It should also be noted that one element of discrimination in the situation exists. And that is, where Japanese merchants retail the merchandise, they refuse to pay this local tax, and the Chinese authorities let them alone. The same may be said of the Standard Oil Co. when it sells its own oil, it refuses to pay the tax, and no further effort is made to collect the same. But when the merchandise is in the possession of the Chinese merchant he is compelled to pay.

I have, etc.,

W. J. CALHOUN.

[Inclosure.]

The American Minister to the American Consul at Newchwang.

No. 239 (Cons.).]

AMERICAN LEGATION,
Peking, November 4, 1910.

SIR: I have to acknowledge the receipt of your dispatch No. 8 of the 1st instant containing supplementary information regarding the illegal imposition of certain taxes by the local authorities in Manchuria. The matter is one which is now occupying the attention of the diplomatic body and it is likely that a concerted effort will before long be made to remove the abuses which do not appear to be confined to any one locality. In the meantime the legation is

gratified to learn of your British colleague's willingness to cooperate with you in attempting to effect a local settlement. Should your joint efforts in this direction still prove unavailing you are requested to place before me as many recent concrete instances of such unjust taxation of American products as you are able to gather and I will be glad to take the matter up with the Wai Wu Pu without waiting for the collective action of the diplomatic body.

I am, etc.

W. J. CALHOUN.

The Acting Secretary of State to the American Minister.

No. 104.] DEPARTMENT OF STATE,
Washington, January 30, 1911.

SIR: The Department is in receipt of your No. 124, of November 22 last, relating to the numerous complaints that are being made, particularly in the Manchurian Provinces, regarding the imposition of illegal taxes on foreign products.

A despatch has been received from the Antung consulate; also its No. 43 S, with copies of the legation's Nos. 162, of September 6, 1910, and 208, of October 19, 1910, to Antung; and Antung's No. 30 L, of October 12, 1910, to the legation, relating to the discrimination against American goods shown in the collection at that port of the consumption tax.

The American Government sympathizes with China in its desire to obtain an increase of revenue which is undoubtedly needed to meet the increased expenditures made necessary by the program of reform which has been undertaken, and desires to assist that program in every legitimate way; but the consistent attitude of this Government toward the questions involved can not be lightly abandoned.

For more than half a century the United States has steadily opposed the levy and collection of taxes in contravention of the treaties. The clearest statement of the legitimate procedure in regard to the internal taxation of foreign imports, and of exports to foreign countries is that stipulated in Articles XI and XII of the Japanese treaty of commerce and navigation of 1896. Under the provisions of these articles the payment of the transit tax exempts the goods from all further inland charges whatsoever.

These privileges appear to have been granted by China to Japan freely, without any consideration, and in that case may undoubtedly be claimed by Americans under the favored-nation clauses of our own treaties; otherwise American trade is made to suffer serious discrimination. The Department and the legation, therefore, have heretofore uniformly insisted upon the refunding of all taxes and dues collected in excess of those provided by the treaties.

You are of course aware that neither section 8 of the British commercial treaty of 1902 nor Article IV of our own treaty of 1903 are in force. Until likin is abolished these provisions of the treaties are inoperative.

The situation in Manchuria is made more serious according to the dispatches of Consul Baker by the discrimination shown in the collection of a consumption tax upon sales of foreign goods. Some foreign firms resist payment and are exempt. The Japanese goods are apparently exempt entirely from the tax, probably because sales are made through Japanese agents only who refuse to pay the tax.

This works great injustice to certain American goods which are thus greatly handicapped in their competition with Japanese products of the same class.

The Department has received a number of letters from the Cotton Goods Export Association of New York complaining of the injustice with which they are treated in Manchuria.

The Department can not but regard as a matter of serious importance the disposition of the Chinese local authorities to disregard the plain provisions of the treaties.

You are instructed, therefore, to continue to protest against any taxation of American goods in excess of that allowed by the treaties and to urge upon the Chinese Government the duty of securing equality of commercial opportunity in Manchuria no less than in other Provinces of the empire by avoiding all discrimination in the levy and collection of such duties and taxes as are legal. You will point out to the Chinese Government the serious effect upon American trade of any such discrimination as is mentioned in the dispatches from Antung.

In this connection, your attention is called again to the telegraphic instruction of November 25 asking for full report by mail of present conditions at Dalny and along the South Manchurian Railway respecting the import of foreign goods.

The Department is anxiously awaiting this report and trusts its receipt may not be unduly delayed.

I am, etc.,

HUNTINGTON WILSON.

File No. 693.116/49.

The American Minister to the Secretary of State.

No. 200.] AMERICAN LEGATION,
Peking, March 9, 1911.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 104 of January 30, 1911, relating to the numerous complaints that are being made, particularly in the Manchurian Provinces regarding the impositions of illegal taxes on foreign products fter passing into Chinese hands. I note the Department's statement therein to the effect that the Government of the United States can not but regard as a matter of serious importance the disposition of the Chinese local authorities to disregard the plain provisions of the treaties. I am, moreover, instructed to continue to protest against any taxation of American goods in excess of that allowed by the treaties, and to urge upon the Chinese Government the duty of securing equality of commercial opportunity in Manchuria by avoiding all discrimination in the levy and collection of such duties and taxes as are legal.

The question is one now occupying the attention of the diplomatic body and it is likely that a concerted effort will before long be made to remove the abuses which do not appear to be confined to any one locality. On November 18, 1910, the dean addressed a letter to the senior consul at Mukden, the Japanese consul general, asking for further information regarding the method of taxation and specific instances of these illegal impositions. When the draft of the pro-

posed letter was circulated among the members of the diplomatic body, I suggested, in view of the fact that all of our consuls in Manchuria had reported the prevalence of this form of illegal taxation in their respective districts, that the inquiry be extended to the whole of Manchuria, and not to Mukden and vicinity alone. This suggestion was approved by my colleagues. The Japanese consul general, in a letter of January 10, 1911, submitted a memorandum on the subject to the dean of the diplomatic body, a copy of which is inclosed for the Department's information. I desire to call attention to the statement in the letter that while the state of affairs now prevailing in Fengtien Province may be considered fairly satisfactory, it seems clear that the Kirin provincial authorities openly maintain a right to tax certificated goods once such goods are in Chinese hands.

Since the receipt of the letter from the senior consul at Mukden I have heard nothing further of this matter from my colleagues here, nor have any of our consuls in Manchuria addressed me recently on the subject. It is believed that with the prevalence of plague in Manchuria and the attending disorganization of trade there may be a momentary cessation in these abuses. But the restoration of normal conditions throughout Manchuria will doubtless see the recurrence of these illegal practices.

I have to-day written the American consular officers at Mukden, Harbin, and Antung, acquainting them with the Department's views as contained in the instruction under acknowledgment, and at the same time expressing the hope that they may succeed in inducing their colleagues to cooperate in attempting to effect a local settlement. Should their joint efforts in this direction still prove unavailing they are requested to inform me further regarding the method of taxation and to place before me as many recent concrete instances of such illegal imposition on American products as they are able to gather. Upon receipt of this additional information I will be glad to take the matter up with the Wai Wu Pu in case it is impossible to secure the collective action of the diplomatic body. As this is such a difficult and complicated question and as the nationals of all the leading representatives here are suffering similarly, though perhaps to varying degrees, I hope to succeed in inducing the diplomatic body to take prompt and energetic steps to remedy the abuses complained of. Collective action in a matter of this nature is, I find, almost without exception more satisfactory than individual action.

Any other developments in this question will be immediately reported to the Department.

I have, etc.,

W. J. CALHOUN.

[Inclosure.]

The Japanese Consul General at Mukden to the Dean of the Diplomatic Corps at Peking.

CONSULATE GENERAL OF JAPAN,
Mukden, January 10, 1911.

YOUR EXCELLENCY: In reply to your letter of the 18th of November last I have the honor to submit in the form of a memorandum a report on the present system of taxation obtaining in the three eastern Provinces with special reference to the taxation of foreign goods and native goods under exemption certificates.

While the state of affairs now prevailing in Fengtien Province may be considered fairly satisfactory, it seems clear that the Kirin provincial authorities openly maintain a right to tax certificated goods once such goods are in Chinese hands.

My colleagues and I, whilst recognizing the very great difficulty in effectively protecting foreign goods in native hands, are unanimously of opinion that even a tacit admission of the principle involved can only tend to cause greater burdens to be levied on foreign trade; they would further submit that a protest from the diplomatic body against the standpoint assumed by the Kirin provincial authorities would at the present moment considerably strengthen the hands of the consuls in Manchuria in their efforts to keep foreign taxation in Manchuria within reasonable limits.

I have [etc.],

C. KOIKE.

[Subinclosure.]

MEMORANDUM ON THE TAXATION ON FOREIGN GOODS AND NATIVE GOODS UNDER EXEMPTION CERTIFICATE IN THE THREE EASTERN PROVINCES, SUCH GOODS HAVING PASSED INTO THE HANDS OF CHINESE DEALERS.

In a question of this nature it is naturally very difficult to procure specific instances of illegal taxation, or indeed to obtain exact information. Chinese subjects for obvious reasons are reluctant to supply material to a foreign consul which they know will be used against their own authorities.

There are also but few Chinese merchants who confine their business to dealing in foreign goods, and in many cases it is impossible not to suspect that merchants of good standing have private arrangement with the tax collectors the nature of which it is against their interest to disclose.

Considerations such as these show that it is a matter of extreme difficulty to obtain clear proof that illegal taxation is being levied.

As far as Fengtien Province is concerned recent investigations seem to show that the present condition of affairs is fairly satisfactory. Neither the consulates at Mukden, nor those established at other open marts in the Province have any outstanding cases, although the Japanese consul at Liaoyang and the American consul at Antung report that consumption taxes are being openly levied within the areas of those marts from Chinese dealers.

On the other hand, at Mukden a Chinese storekeeper handling only foreign articles states that no attempt is made to collect local taxes from him, and there also seems to be a system in force that foreign goods bought directly from a foreigner are exempted on production of a bill of sale.

As far as can be ascertained, there is a general levy throughout the Province of a consumption tax averaging about 2 per cent ad valorem. This is collected sometimes on arrival of the goods at destination, sometimes at the end of each month on an assessment of the gross value of trade done by the particular merchant.

In the former case goods under exemption certificate would escape; in the latter, more especially as the majority of Chinese importers do not use exemption certificates, it would seem that foreign goods would pay their quota.

Further, after import, when exemption cargo is broken up into small parcels, it would be extremely difficult to protect it against a levy of this nature.

Speaking generally, from the absence of complaints it seems a not unwarrantable conclusion that the consumption tax is not heavy, on the whole collected reasonably, and that there is a desire on the part of the tax officials to avoid direct levies on exemption cargo.

In Kirin Province not only is the scale of taxation heavier, but there has been a constant effort on the part of the authorities to levy taxes on certificated goods.

At Ch'angch'un, and apparently all over the Kirin Province, the following taxes are in force:

(*a*) Kuan chuan, —— of 0.07 per cent.

(*b*) Chu chuan, —— of 0.04 per cent.

These are known as the 7 and 4 "li" tax, and are generally levied from the importer.

(*c*) Mai ch'ien chuan, —— of 0.09 per cent, levied from the seller.

(*d*) The ying yeh shui, —— of 1 per cent, levied from the importer.

(*e*) Hill and sea tax, ——. This is a species of octroi, levied mainly on native goods. But marine products, kerosene, foreign vermicelli, and other articles are included in the tariff, which averages about 3 per cent ad valorem.

(*f*) Special excise taxes are levied on tobacco, wines, and spirits. In the case of tobacco the tax is 10 per cent ad valorem.

That these taxes have been and are still being levied on goods brought in under exemption certificates seems to need no specific proof. The Kirin authorities openly assume the attitude that they may tax such goods as of right once such goods are in the hands of Chinese merchants.

In a report from the Kirin customhouse sent to the American consul on the 28th of March, 1909, are the following statements:

> In goods turned over to native merchants exemption certificates are of no avail and foreign merchants can not request the nonpayment on behalf of merchants who are acting as their agents.

The collectorate at Ch'angch'un levies duty on kerosene in addition to the 7, 4, 9 business tax, but in every case from Chinese merchants, and in no case from foreign merchants.

Mr. F. D. Cloud, then in charge of the American consulate general, submitted this document for the consideration of his colleagues, and it formed the basis of the identical note which the Mukden consular body sent in to the viceroy in June, 1909, and which was later transmitted to the various legations.

It would appear from the reply of the Wai-Wu Pu to the dean of the diplomatic body, dated February 22, 1910, that the governor of Kirin maintains the same attitude as his customs board. It is stated therein with reference to the 7 4 9 li taxes, "the above-mentioned taxes are all levied on the capital of Chinese merchants. With reference to the collection of 1 mace 5 candareens per case on kerosene oil this is levied on the business capital of Chinese merchants."

More recently in reply to protest against the levy of the kerosene tax brought forward by the American consul at Harbin, the commissioner of the foreign bureau at Kirin in a letter dated August 25, 1909, states "as to the tax of 7 4 9 li it is collected on the capital invested and the proceeds of goods sold, and not on the goods."

Again, on the 22d October in a further dispatch to Mr. Green on the same subject, the commissioner takes the stand "after foreign goods are sold to Chinese subjects and when the latter sell to each other they must, of course, pay the inland taxes according to the regulations."

On the 1st of December the Ch'angch'un Taot'ai wrote to H. B. M.'s consul general with reference to a claim to tax sugar imported by a British firm, "the regulation laid down by the tax office are to the effect that all goods, no matter what the nationality of the importer, must pay the 7 4 li tax on sale to Chinese merchants."

The exemption certificate only frees foreign merchants from payment of import duty and can not free native merchants from payment of tax on goods purchased. As Chien, the deputy points out, these taxes are levied from Chinese merchants and are no concern of foreigners. In this case the British firm in question complains that their goods, which are all imported under exemption certificates, are, on leaving their godowns, followed by the police and tax officials to the buyers' shops and that the police prevent cargo leaving the city until the buyers produce a certificate showing that the tax has been paid.

In a proclamation issued by the Ch'angch'un tax office in the ninth moon of the present year, clause 9 lays down specifically that purchasers of goods from foreign merchants must pay a buying tax of 1 per cent. Presumably this is the "Ying Yeh" tax.

The Japanese consul at Ch'angch'un has, however, recently obtained a verbal promise from the Taot'ai that this claim will be withdrawn.

As regards tobacco an attempt was recently made to levy a tax of 10 per cent on goods imported by a British firm under certificate within the limits of the open mart of Ninguta. This question is still in the hands of the British consul at Harbin.

At present the consular body at Mukden have little or no information as to the treatment of goods in Hei Lung Chiang Province.

The Secretary of State to the American Minister.

No. 126.] DEPARTMENT OF STATE,
Washington, May 1, 1911.

SIR: The Department has read with interest your dispatch No. 200 of March 9, 1911, dealing with the levy in the Manchurian provinces of certain illegal taxes upon foreign goods after they have passed into Chinese hands.

The memorandum by the Japanese consul general at Mukden, which you inclosed, appears to supply adequate grounds for strong representations to the Chinese Government upon this subject by the diplomatic body at Peking.

The Department is glad to learn from this memorandum that the situation in Fengtien is somewhat more satisfactory than in Kirin. At the same time it must not be forgotten that the consul at Antung has reported illegal taxation of American goods in that district.

Your action in suggesting to the American consular officers in Manchuria that they cooperate with their colleagues in attempting to effect local settlements of the complaints is approved by the Department, but it is hoped nevertheless that the diplomatic body at Peking will not delay to bring the matter to the attention of the foreign office also and endeavor to secure such action by that office as will tend to remedy the abuses of which complaint is made and prevent their recurrence.

I am, etc.,

P. C. KNOX.

PAYMENT OF CHANGSHA INDEMNITY CLAIMS.[1]

File No. 493.11a/9.

The American Minister to the Secretary of State.

No. 191.] AMERICAN LEGATION,
Peking, February 28, 1911.

SIR: Referring to the legation's telegram of October 16,[1] and of the Department's telegraphic reply thereto of October 22,[1] with regard to the indemnity claims by American citizens growing out of the Changsha riots in April, 1910, I have the honor to inform you that I am in receipt of a note from the Wai-Wu Pu, dated the 23d instant, informing me that a settlement of these claims was effected between the two Chinese officials appointed by the viceroy of the Liang Hu Province and the American consul general at Hankow on January 28, 1911. The total award to the American claimants amount to 53,934.58 taels. The foreign office also inclosed copy of the agreement in Chinese and in English, and asked that I place it on the legation files.

A copy of the draft agreement was sent me by the consul general at Hankow, requesting my approval and authorization for him to sign. After carefully perusing the agreement I authorized the consul general to sign it. A copy of the foreign office note[2] and

[1] See Foreign Relations, 1910, p. 352.
[2] Not printed.

of the agreement as signed are inclosed herewith. The consul general informs me that the American claimants have been paid.

I have, etc.,

W. J. CALHOUN.

[Inclosure.]

AGREEMENT IN SETTLEMENT OF CHANGSHA INDEMNITY CLAIMS.

Be it agreed that, inasmuch as on the fifth day of the third moon of the second year of Hanan T'ung, being the 14th day of April, 1910, the famished people of Changsha, in the Province of Hunan, made certain disturbances, involving thereby foreign merchants and missionaries in losses, their excellencies Viceroy Jui of the Hu-Kuang and Governor Yang of the Province of Hunan, and his excellency James W. Calhoun, American Minister at Peking, have respectively appointed us, the Taotais Wang and Wang, and myself the American Consul, to discuss, impartially and with justice, a method of settlement in order that friendly feelings may be strengthened, and that discussion having now been completed and nothing having been omitted, we are finally settled upon the following:

I.

The losses sustained by the American merchants and missionaries are as follows:

Standard Oil Co	$38, 497. 45
United Evangelical Mission	23, 893. 76
American Church Ms	9, 895. 20
Dr. E. D. Vanderburgh	1, 074. 47
Mustard and Co	844. 50
Mrs. L. Berst (nee Newman)	187. 35
Total	74, 392. 53

which equals (0.725), 53,934.58 Hankow taels.

Wherefore, let it be understood that it is necessary to pay 53,934.58 Hankow taels.

II.

This matter having been once settled, the said firms and missionaries shall not raise further questions or make fresh demands for compensation in this case.

III.

Since the famished people of Changsha have made disturbances involving the foreign merchants and missionaries in losses, the local officials at Changsha will hereafter undertake to be more assiduous in their protection.

IV.

The above sum will be paid within one month from the date of the affixing of the signatures to this document at the branch of the Ta Ch'ing Bank. Separate vouchers will be made for the money and some one will be appointed by the consul to go to the branch of the Ta Ch'ing Bank, to get and distribute the money.

Eight copies of the above articles must be made, both in Chinese and English, and after the signatures have been affixed must be approved by Their Excellencies the Viceroy and Governor and His Excellency the American Minister at Peking, after which the eight copies shall be disposed of as follows:

Wai Wu Pu	1 copy.
American Legation	1 copy.
Viceroy's Yamen	1 copy.
Hukuang Foreign Office	1 copy.
Governor's Yamen	1 copy.
Customs Taotai, Hankow	1 copy.
Customs Taotai, Changsha	1 copy.
American Consul, Hankow	1 copy.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this agreement in octuplicate in the English and Chinese languages, and have affixed our respective seals.

Done at Hankow, this 28th day of January in the year of our Lord one thousand nine hundred and eleven, and in the second year of Hsuan T'ung 12th month and 28th day.

[Seals and signatures of the representatives of the Viceroy of Hukuang and the Governor of Hunan.]

[SEAL.]

R. B. MOSHER,
American Consul General, Hankow.

File No. 493.11a/10.

The American Consul General at Hankow to the Secretary of State.

No. 55.]

AMERICAN CONSULATE GENERAL,
Hankow, March 25, 1911.

SIR: I have the honor to report that I have received from representatives of the Viceroy, and transmitted to the respective American claimants, the sum of 53,148.54 Hankow taels, in payment of their claims for indemnity on account of the Changsha riots in April, 1910.

In the course of the negotiations with the Viceroy's representatives, from figures supplied by them an error was committed whereby the total was agreed upon as 53,934.58 taels, and it was not discovered until after the money had been received, when the surplus of 786.04 taels was immediately returned to them. From the pleased surprise which they showed I should say the incident has tended to increase their respect for the fairness of Americans in such matters. Duplicates of the receipts from the claimants and for the money returned to the Taotais [1] are inclosed herewith.

I have, etc.,

R. B. MOSHER.

RUSSO-JAPANESE AGREEMENT AS TO RAILWAYS IN MANCHURIA.

File No. 761.94/59.

The American Ambassador to Russia to the Secretary of State.

No. 11.]

AMERICAN EMBASSY,
St. Petersburg, August 18, 1911.

SIR: In continuation of this embassy's despatch No. 290, of July 23, 1910, and of previous despatches on the subject of the Russo-Japanese agreement as to railways in Manchuria,[2] I have the honor herewith to forward the French text (with translation) of a protocol signed here on the 14th instant and made public to-day. The elaborated agreement as to freight, I am informed, has been signed but is not yet in form to publish. The text inclosed is furnished by the Japanese Embassy.

I have, etc.,

CURTIS GUILD.

[Inclosure—Translation.]

The Imperial Russian Government and the Imperial Japanese Government, wishing to facilitate, in accordance with the provisions of the first supple-

[1] Not printed.

[2] See Foreign Relations, 1910, p. 835.

mentary article annexed to the provisional convention, signed in St. Petersburg on the 31st May/13th June, 1907,[1] concerning the adjustment of the services of the Russian and Japanese (Japanese-Russian) railways in Manchuria, the direct transport of goods between the two countries by the Russian and Japanese (Japanese-Russian) railways and steamers, have agreed to the following:

(1) Both Governments will permit the interested railways and shipping companies to make arrangement as to direct transport of goods. These arrangements must be submitted for confirmation to both Governments before they are put into practice.

(2) Both Governments undertake in case of necessity to take all legislative measures required for the putting into force of the said arrangements.

In witness whereof the undersigned, duly empowered by their Governments, have signed the present convention and affixed their seals thereto.

Made at St. Petersburg on the 1/14th August, 1911, which corresponds to the 14th day of the 8th month of the 44th year of Meiji.

(Signed) MOTONO. [SEAL.]

(Signed) NERATOFF. [SEAL.]

RIGHT OF FOREIGNERS TO OWN LAND IN TIENTSIN OUTSIDE BOUNDS OF FOREIGN CONCESSIONS.

File No. 893.5211/3.

The American Chargé d'Affaires to the Secretary of State.

No. 346.] AMERICAN LEGATION,
Peking, October 10, 1911.

SIR: I have the honor to inclose [etc.] * * *. The legation would be pleased to learn the views of the Department on the subject discussed in the inclosure herein.

I have, etc., E. T. WILLIAMS.

[Inclosure.]

The American Chargé d'Affaires to the American Consul General.

No. 731 (Cons.).] AMERICAN LEGATION,
Peking, October 7, 1911.

SIR: I have to acknowledge the receipt of your No. 162, of October 5, 1911, asking instructions in regard to the rights of foreigners in general and of Americans in particular to own land in Tientsin outside the bounds of the foreign concessions.

In reply I have to say that in the opinion of the legation, subject to the approval of the Department, to whom the correspondence will be referred, a foreigner can legally lease land in the immediate vicinity of Tientsin and other open ports, even though such land may be located outside the limits of the foreign settlements, provided, however, that the Chinese local authorities permit the leasing of such lands to foreigners and register the deeds.

The provisions of Article III of the treaty of 1903 between the United States and China appear to be somewhat less liberal in this regard than those of Article XII of our treaty of 1858 and those of some other treaties—particularly the British—which do not specifically restrict the leasing of land by British subjects to places set apart for the use and occupation of foreigners.

But while Article III of the American-Chinese treaty of 1903 affirms the right of American citizens to rent or purchase houses and to lease land in the suitable localities set apart for the use and occupation of foreigners, it does not deny their enjoyment of the privileges accorded to foreigners of other nationalities, but, on the contrary, expressly states that "they shall generally enjoy as to their persons and property all such rights, privileges, and immunities as are

[1] See Foreign Relations, 1907, p. 782.

or may hereafter be granted to the subjects or citizens of the nation the most favored in these respects."

The legation understands it to be the general practice at Tientsin to permit the leasing of land to foreigners outside the bound of the foreign concessions, and where this privilege is granted to foreigners of other nationalities it ought not to be withheld from Americans.

The principle set forth in the earlier treaties was that the local consular and Chinese authorities should agree as to the location of houses to be rented and the sites of lands to be leased, and this principle should rule still. If the Chinese authorities permit the leasing of land outside the bound of the concessions, the consuls ought not to interpose objections, but should register the deeds. On the other hand, it should be clearly understood that if the local Chinese authorities object generally to such leases there is no right under the treaty to insist upon them.

I am, etc.,

E. T. WILLIAMS.

The Secretary of State to the American Minister.

DEPARTMENT OF STATE,

No. 192.] *Washington, November 17, 1911.*

SIR: The Department is in receipt of the legation's dispatch No. 346, of October 10 last, inclosing a copy of a dispatch dated October 7, 1911 [etc.].

Where the acquisition of land by foreigners outside of the several treaty ports is a matter of permission and usage, fortified by long observance and generally claimed for and conceded to the citizens or subjects of other nations, this Government would also be disposed to hold that deeds for such land presented by American citizens might properly be registered at the respective consulates.

You may advise the consul general at Tientsin to this effect.

I am, etc.,

P. C. KNOX.

NOTE.—In this connection see Japan, Land Laws of Korea.

VISIT OF THE CHINESE CRUISER "HAI CHI."

[Statement for the Press.]

FIRST CHINESE WAR VESSEL TO VISIT THE UNITED STATES.

The Chinese cruiser *Hai Chi*, which recently attended the coronation celebration in England, will, by imperial sanction, visit New York, Cuba, and certain eastern ports of Mexico, and is expected to arrive in New York Sunday next. The *Hai Chi* is under the command of Rear Admiral Ching Pih Kwang, and besides the regular number of naval seamen has on board 42 officers.

Among the officers of the Chinese Navy in active service, Rear Admiral Ching Pih Kwang ranks second only to Admiral Sah Chenping, who visited the United States last year with Prince Tsai Hsun.

Admiral Ching is a native of the Province of Kwang-tung. He received his education in the Naval School at Foochow, and afterwards completed his studies in England. He served with credit through the war with Japan and took part in many engagements. For three years he was in command of the cruiser *Hai Yung* and made an extended cruise to the South Sea Islands. He was ordered

to Peking about 1908 to assist in the reorganization of the Chinese Navy. Last June he proceeded to England in command of the cruiser *Hai Chi* to take part in the coronation ceremonies of King George V. Admiral Ching is an accomplished scholar, and speaks many languages fluently, including English.

The visit of the *Hai Chi* to the United States is the first appearance of a Chinese war vessel in American waters, and although Rear Admiral Ching is not coming as the Nation's guest, this Government will do all it can to make his stay in America a pleasant one.

File No. 893.3311/1.

The Chinese Minister to the Secretary of State.

IMPERIAL CHINESE LEGATION,
Washington, June 19, 1911.

SIR: I am instructed by my Government to inform you that the Chinese cruiser *Hai Chi*, which is now in England, has been ordered to make a visit to the United States after taking part in the ceremonies connected with the coronation of King George V. This is the first instance of a Chinese public vessel visiting the American shores. I have the honor to inquire if there are special rules and formalities to be observed on such an occasion.

Accept, etc.,

CHANG YIN TANG.

File No. 893.3311/4.

IMPERIAL CHINESE LEGATION,
Washington, August 29, 1911.

SIR: Referring to the legation's note of the 19th of June last, I have the honor to inform you that the Chinese cruiser *Hai Chi*, under the command of Rear Admiral Ching Pih Kwang, is expected to leave British waters on the 31st instant, and to arrive at New York on or about the 10th of September next.

I shall be greatly obliged if you will be so kind as to communicate the information to the Navy Department.

Accept, etc.,

YUNG KWAI,
Chargé d'Affaires ad interim.

File No. 893.3311/4.

The Acting Secretary of State to the Chinese Chargé d'Affaires.

DEPARTMENT OF STATE,
Washington, September 2, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, advising me that the Chinese cruiser *Hai Chi*, under the command of Rear Admiral Ching Pih Kwang, is expected to arrive at New York on or about the 10th instant, and requesting that this information be communicated to the Navy Department.

I have the honor to advise you in reply that, with a view to the extension of the usual courtesies to the vessel, the Department has taken pleasure in communicating the information to the Governor of

New York and to the Secretaries of the Treasury, War, and Navy Departments.

The Department has also requested the Secretary of Commerce and Labor to cause such steps to be taken as will permit the officers and sailors of the vessel to go on shore during the visit of the vessel.

Accept, etc.,

HUNTINGTON WILSON.

File No. 893.3311/15.

The Acting Secretary of State to the Chinese Chargé d'Affaires.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 12, 1911.

The President desires to see Admiral Ching at 2.30 Thursday afternoon instead of 5. Will you kindly so arrange the admiral's program?

HUNTINGTON WILSON.

File No. 893.3311/19.

Rear Admiral Ching to the Secretary of State.

H. I. C. M. S. "HAI CHI,"
New York, September 24, 1911.

SIR: I have the honor to inform you that cruiser *Hai Chi* will sail from New York to Habana to-morrow morning, the 25th instant.

During our stay in New York we have thoroughly enjoyed your hospitality, and I feel very grateful for the courtesy you have extended to me. Commander G. F. Cooper, United States Navy, who is kindly sent to assist me by the Navy Department, has rendered me valuable service. His capabilities in managing affairs and his ever readiness to attend to all I wanted have helped make my sojourn in your country very pleasant indeed.

I beg hereby to thank you most heartily for all your courtesies, and hope that you will excuse my not coming personally to say farewell to you.

I have, etc.,

P. K. CHING, I. C. N.,
Rear Admiral.

File No. 893.3311/19.

The Acting Secretary of State to Rear Admiral Ching.

DEPARTMENT OF STATE,
Washington, September 28, 1911.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant, in which you advised the department that the Imperial Chinese cruiser *Hai Chi* was to sail for Habana on the following day.

It is with great satisfaction that I receive the expression of your appreciation of the hospitality and courtesy extended to you by the United States Government and its officers, and I have taken pleasure in forwarding a copy of your letter to the Secretary of the Navy. I desire to assure you that it has afforded equal satisfaction to this Government and its officers to have had the opportunity afforded by the visit of the *Hai Chi* under the command of so distinguished an officer of the Imperial Chinese Navy to testify the cordial regard ever entertained by the Government of the United States for the ancient Empire of China.

Regretting that your inability to make at Washington a personal call of farewell deprived me of the pleasure of again meeting you,

I have, etc.,

HUNTINGTON WILSON.

File No. 893.3311/23.

The American Chargé d'Affaires at Peking to the Secretary of State.

No. 342.] AMERICAN LEGATION,
Peking, September 29, 1911.

SIR: I have the honor to inclose herewith a copy in translation of a note received from the Prince of Ch'ing conveying the thanks of the Chinese Government for the reception accorded the Chinese cruiser *Hai Ch'i* on the 10th instant.

I have, etc.,

E. T. WILLIAMS.

[Inclosure.]

The Prince of Ch'ing to the American Chargé d'Affaires.

F. O. 139.] FOREIGN OFFICE,
Peking, September 28, 1911.

EXCELLENCY: I am in receipt of a note from the admiralty board stating that Commander Ch'eng has telegraphed that the Chinese cruiser *Hai Ch'i* sailed from England for America on the 31st of August and arrived at New York on the 10th of September. The cruiser was most cordially received by the American authorities, to the high appreciation of the Chinese officers. The admiralty asks that a note may be sent to the American minister to express its thanks.

The reception given to the *Hai Ch'i* on this occasion is another proof of the friendly relations existing between the two nations, and I write to express the sincere thanks of my Government, which I ask your excellency to convey to the American Government.

SEAL OF THE WAI-WU PU.

HUKUANG RAILWAY, CURRENCY REFORM, AND REORGANIZATION LOANS.

NOTE.—For all these negotiations see the next volume: For. Rel. 1912; the Hukuang loan will be continued from For. Rel. 1910, p. 291.

COLOMBIA.

MESSAGE OF THE PRESIDENT, DON CARLOS E. RESTREPO, TO THE COLOMBIAN CONGRESS, JULY 20, 1911.

File No. 821.032.

[The following is the only passage making reference to the United States:]

[Translation.]

The relations of the Republic with friendly nations have remained undisturbed. Only with Peru have incidents arisen, during the last few days, which might destroy the harmony so earnestly desired by the Government of Colombia. These incidents concern the litigation involving the sovereignty of this Government over the territory tributary to the Amazon. In the conduct of this litigation the maintenance of international peace is the criterion that guides Colombia, while safeguarding our rights to territories which to-day, as always, we consider ours by virtue of titles faithfully defended on many occasions. The Government has been occupied in preparing, with scrupulous care and fully aware of its supreme responsibilities, the stipulations that will permit it to terminate worthily and equitably the differences existing for some time between it and other nations.

The disagreement between Colombia and the United States caused by the separation of Panama has not yet reached the satisfactory solution so much to be desired for the disappearance of national solicitude concerning a problem in which are bound up great and valuable interests of the country. The Government of Colombia considers that arbitration is the most efficacious means of putting an end to this question, and will confide its claims to the judgment of an arbitral tribunal granting justice. Incidents auspicious to the rights of peoples strengthen the influence of arbitration in internatioal relations for the solution of controversies not adjustable through diplomatic channels.

In the middle of the past year there arose a conflict between an American company owning the tramway property and the public of Bogotá. As happens everywhere under such circumstances, several encounters took place. The foreign office intervened officially, with a view to terminating the disagreements, and, intelligently aided by the minister of the United States, the incident was closed by the sale of the tramway property to the municipality of Bogotá, which, apart from its income, has permitted them to initiate advantageously the negotiations for a loan, destined to complete and improve the public service of the capital.

TREATIES BETWEEN COLOMBIA, THE UNITED STATES AND PANAMA RELATING TO THE CANAL.[1]

File No. 721.000.

Report of the Minister for Foreign Affairs to the Colombian Congress, August 22, 1911.

[Extract—Translation.]

The special circumstances attending our relations with the great Republic of the North, due to acts which it is useless to recall, are known; as my honorable predecessor had occasion to state in his report to the National Assembly of the past year, the Root-Cortés treaties were unfavorably received by the public opinion. But the results of said negotiations in no wise signify that all hope of reaching an honorable solution, such as has been the wish of the Colombian people, must be abandoned. For in the midst of transitory interests justice opens the way and compels the adhesion of the understanding and the will, and much may be hoped of peoples who have become great by observing the lofty traditions of the law.

Echoes of this sentiment and currents of sympathy spontaneously developed in the great Republic in favor of the rights of Colombia reach us and are unexceptionable testimony in favor of our just claims.

Since the separation of the Isthmus and the ensuing treaty between the de facto Government of Panama and that of the United States regarding cession of the Canal Zone Colombia asked that the principal point in dispute be submitted to arbitration, that is to say whether the United States had faithfully complied with the treaty of 1848. The points of view of the two countries being diametrically opposed and Colombia considering the new interpretation given by the North American Government to said treaty, famous in diplomatic annals, to be contrary to the treaty and especially to the express stipulation contained in article 35, the solution of the difference by arbitration seemed to be indicated, a system which Colombia has always proclaimed as the most civilized and equitable for the solution of international difficulties not susceptible of direct adjustment. Arbitration exercised by an entity or by a person worthy of acting as a representative of justice equalizes the forces of the powerful and the weak and insures the security of all rights. It is noteworthy that the present illustrious President of the United States has publicly expressed his opinion regarding the projected treaty of arbitration with England, that in such a manner all questions, even those affecting the national honor, should be decided. This breadth of judgment, which doubtless responds to a high conception of justice, permits the hope of arriving finally at a satisfactory solution of an incident which has engendered profound uneasiness in the national life.

[The rest of the report refers to the difficulty between the public of Bogotá and the North American Tramway Co., Mr. Johnson Martin, manager, and the settlement thereof by the sale of the tramway to the city of Bogotá.]

PARTICIPATION OF COLOMBIA IN THE CORRESPONDENCE CONCERNING THE BOUNDARY DISPUTE BETWEEN ECUADOR AND PERU.

(See Ecuador. Boundary dispute between Ecuador and Peru.)

[1] See Foreign Relations, 1910, p. 361 et seq.

COSTA RICA.[1]

REBUILDING OF THE CENTRAL AMERICAN COURT OF JUSTICE DESTROYED BY EARTHQUAKE, MAY, 1910.[2]

File No. 713.001/4.

Mr. Andrew Carnegie to the Acting Secretary of State.

SKIBO CASTLE,
Dornoch, Southerland, October 7, 1910.

DEAR SIR: In reply to yours of September 20,[3] inclosing Mr. Merry's letter regarding the proposed temporary structure, I beg to say that I have already been approached through Mr. Barrett and replied that on no account would I be a party to the erection of any temporary structure. The money appropriated for a permanent structure must be applied to that object and none other. The balance on hand should be remitted to me at New York and form part of the sum which I am to spend for the new courthouse.

It will be in your recollection that reports were made of the improper construction of the former building, these stating that the probability was that if it had been properly constructed it would have withstood the earthquake. I think it would be advisable when the next structure is determined upon for us to see the plans and mode of construction. I do not wish to erect a structure which is not what it should be and I am sure you will understand how reluctant I should be to have anything to do with a mere temporary structure costing a few thousand dollars.

Very truly, yours,

ANDREW CARNEGIE.

File No. 713.001/8.

The American Minister to the Secretary of State.

No. 1538.] AMERICAN LEGATION,
San José, Costa Rica, November 19, 1910.

SIR: I have the honor to further acknowledge receipt of the following despatches[3] relating to the building for the Central American Court of Justice: No. 863, file No. 713.001/4, of the 24th ultimo: No. 864, file No. 713.001/5, of the 27th ultimo; and file No. 713.001/6 of 31st ultimo.

Since their receipt I have had a confidential interview with His Excellency José Astúa Aguilar, Costa Rica magistrate in said court, and have sent a note to the secretary of the court, Mr. Ernesto Martin, informing him that Mr. Carnegie was not disposed to have

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[1] See Panama, p. 674.
[2] See Foreign Relations, 1910, pp. 409–414.
[3] Not printed.

his funds used for the construction of a temporary building as suggested. Judge Aguilar freely admitted the disgraceful result of poor construction and partly poor material at the Cartago court building and is of the opinion that the arrangement for the location and construction of the next building should be made at Washington, where all the Central American Republics are represented, and where Mr. Carnegie is accessible. He thinks that the location can be changed to San José; but inasmuch as article 5 of the Washington Convention of December 27, 1907, specifies Cartago as the location of the court, the permission to change the location would have to receive the assent of the signatory Republics through their Washington representatives. I also suggested to him that instead of spending one-tenth of the fund for realty the Government has vacant land in suitable location here which can be utilized for the purpose, permitting the entire fund to be used for construction. There is an excellent location for the building in the eastern part of the National Park to which the building would be an attractive ornament.

As I have no instruction to take further action in the matter, I shall not communicate with the Costa Rica Government in relation to it. What funds remain were in possession of ex-President Gonsales Víquez and have no doubt been by him transferred to President Jiménez.

With assurances [etc.],

WILLIAM LAWRENCE MERRY.

File No. 713.001/13.

The President of Costa Rica to the American Minister.

[Translation.]

SAN JOSÉ, *December 21, 1910.*

MY DEAR MR. MERRY: Mr. Astúa Aguilar referred to me the interview that he had had with you with respect to the edifice of the Central American Court of Justice. I learnt from him that although you do not treat this affair as one of those of the legation which is in your worthy charge, you desired to bring to the knowledge of the Government of Costa Rica the attitude of Mr. Carnegie with respect to this affair. My Government can do no less than acknowledge once more the generous undertaking of Mr. Carnegie and it has not the least objection to make to Mr. Carnegie's intention not to construct the building once more in the city of Cartago. We desire that the Central American Court of Justice shall fulfill the mission assigned to it by its creators, but we are entirely indifferent as to the place where it exercises its functions. Otherwise, my firm intention is not to interfere at all in the execution of the work; but as Mr. Astúa spoke to me of the suggestion that I understand you were pleased to make respecting the necessity of modifying the Washington treaty in order to change the regular seat of the court, I am agreeable that the Government of Costa Rica should propose the necessary modifications of the treaty in the next Central American conference which will meet in Guatemala City at the beginning of next January. With

this purpose and to justify the proposal of Costa Rica, I beg you, if you approve, to so authorize me, in order that the representative of Costa Rica may affirm in the conference that Mr. Carnegie is disposed to reconstruct the edifice, always providing that the building be constructed not in Cartago, but in another place in Costa Rica to be decided by the court with the acquiescence of Mr. Carnegie, although this last circumstance is not considered in the amendment which will be made to the Washington treaty, and in order that said representative of Costa Rica may declare that our Government has knowledge of the decision of Mr. Carnegie through the channel of the American legation that you so ably conduct.

I remain [etc.],

RICARDO JIMÉNEZ.

The American Minister to the President of Costa Rica.

AMERICAN LEGATION,
San Jose, Costa Rica, December 22, 1910.

MY ESTEEMED FRIEND: I have the honor to acknowledge your favor of the 21st alluding to another edifice for the Central American Court of Justice. Although strictly speaking I have no direct connection with the matter, under dates of October 24, 27, and 31 I am informed by my Government of the desire of Mr. Carnegie to rebuild under somewhat different conditions. First, he desires a location elsewhere, preferably I presume at San José; second, he proposes to have his own architect and superintendent of construction, who will be instructed to produce a building as near earthquake proof as is possible. I presume that the funds will be available whenever the arrangement can be made for change of location and I agree with your excellency that your Government shall propose the necessary modification of the treaty in the proximate Central American Conference which is to meet in January at Guatemala. You are at liberty to make use of the information contained in Mr. Carnegie's letters to my Government. Permit me to suggest also that it seems to me the building at the east end of the National Park, where it would be an ornament to the city and add to the attraction of the park itself. By so doing, the total amount contributed by Mr. Carnegie can be devoted to construction. The property now at Cartago might also be sold and added to the amount. However, these are informal views of my own.

Having observed recently on the part of the San José local press a disposition to depreciate the value of this court and to discredit its action, I may be permitted to state that my Government values he court as a necessity to the security of Central American international peace. I shall send a copy of your excellency's letter and my reply thereto to my Government by next mail.

Will your excellency kindly inform me of the exact amount remaining from this fund in the hands of your Government at this date, a matter upon which Mr. Carnegie will desire to be accurately informed.

With assurances [etc.].

WILLIAM LAWRENCE MERRY.

File No. 713.001/15.

Mr. Andrew Carnegie to the Secretary of State.

NEW YORK, *January 12, 1911.*

DEAR SIR: Replying to your note of January 10,[1] I beg leave to state that I stand ready to appropriate the same sum as before for the erection of the Central American Court of Justice, viz, one hundred thousand dollars, whenever the States concerned agree upon the location and provide a site. There is, I am informed, some thirty-odd thousand dollars still in hand from the first fund I provided, all of which was drawn from me, which is to be returned and appropriated by me to the new erection. It will afford me much pleasure to send a competent architect to superintend construction, if so desired by the authorities.

Very truly, yours,

ANDREW CARNEGIE.

File No. 713.001/29.

The Secretary of State to the American Chargé d'Affaires.

No. 890.] DEPARTMENT OF STATE,
Washington, June 27, 1911.

SIR: I inclose herewith a copy of a letter from Mr. Andrew Carnegie, stating that he takes great pleasure in authorizing you to draw on Mr. Franks under the conditions stated.

You are accordingly instructed to take the action requested in Mr. Carnegie's letter of May 22.

I am [etc.],

P. C. KNOX.

[Inclosure.]

Mr. Andrew Carnegie to the Secretary of State.

NEW YORK, *May 22, 1911.*

DEAR SIR: In fulfillment of my promise to renew my former offer of one hundred thousand dollars for the erection of the Central American Court of Justice at San José, replacing that destroyed at Cartago, I beg you to instruct the United States minister at San José to inform the Costa Rican Government that he, our minister, is authorized to draw upon Mr. R. A. Franks, president of the Home Trust Co., Hoboken, N. J., in sums of twenty-five thousand dollars, as the work progresses, to the extent of one hundred thousand dollars, duly forwarding Mr. Franks therewith certificates of work done as given to him by the Costa Rican authorities.

We leave the construction of the court and selection of site to the Government of Costa Rica.

Very truly, yours,

ANDREW CARNEGIE.

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[1] Not printed.

File No. 713.001/21.

CONVENTION RELATIVE TO THE TRANSFER OF RESIDENCE OF THE CENTRAL AMERICAN COURT OF JUSTICE.

[Transmitted by the American Minister to Guatemala in dispatch No. 65 of Mar. 14, 1911.]

[Translation.]

Whereas the Governments of Guatemala, Nicaragua, El Salvador, Costa Rica, and Honduras deem it of urgent necessity to amend Article V of the Washington treaty of 1907 relative to transferring to the city of San José, capital of Costa Rica, the seat of the Central American Court of Justice, which, pursuant to the above-named treaty, should reside at Cartago, they have named as delegates: Guatemala, Señor Licenciado don José Pinto; Nicaragua, Señor don Arturo Elizondo; El Salvador, Señor Doctor don José Rodríguez; Costa Rica, Señor Licenciado don Carlos Lara; and Honduras, Señor Doctor don Manuel F. Barahona.

The delegates assembled in the Central American International Office and, after having communicated to each other their respective full powers, which they found to be in good and due form, have agreed upon the following:

ARTICLE I. Article V of the treaty of Washington of December 20, 1907, is changed to read as follows:

ART. V. The Central American Court of Justice shall sit at the city of San José in the Republic of Costa Rica, but it may on occasion transfer its residence to another point in Central America when it may deem it proper to do so for reasons of health, of assuring the exercise of its functions, or of the personal security of its members.

ART. II. This convention shall be ratified by exchange of notes between the interested Governments and may be put in force on ratification thereof.

Signed at the city of Guatemala on the 10th day of January, 1911.

J. PINTO.
ARTURO ELIZONDO,
J. A. RODRÍGUEZ,
CARLOS LARA,
MANUEL F. BARAHONA.

Ratified[1] by Costa Rica, January 11, 1911; Guatemala, February 20, 1911; Salvador, March 17, 1911; Nicaragua, December 30, 1911; Honduras, March 19, 1912.

[1] Notice of these ratifications may be found, except that of Honduras, in "Salvador: Boletin del Ministerio de Relaciones Exteriores; 1911" in the library of the Pan-American Union at Washington, at the following pages: Costa Rica, 99; Guatemala, 205; Salvador, 208; Nicaragua, 692. The ratification of Honduras at page 6 of Boletin vii for 1912 (Salvador).

CUBA.

RECIPROCITY TREATY: PROPOSAL TO AMEND AND PROLONG IT.

File No. 611.3731/14.

The American Minister to the Secretary of State.

No. 637.] AMERICAN LEGATION,
Habana, February 17, 1911.

SIR: Referring to certain suggestions recently made by Señor Sanguily, the Cuban secretary of state, which were mentioned in my dispatches Nos. 589[1] and 626,[2] I have the honor to report that a bill has now been introduced in the Chamber of Representatives to authorize the Executive:

1. To request of the Government of the United States of America the amplification of the existing reciprocity treaty between Cuba and the United States,[3] with a view to obtain greater advantages for tobacco in return for concessions in regard to other American merchandise,

2. To invite the United States to conclude a treaty for the reciprocal protection of trade-marks and patents; and

3. To apply a surcharge upon existing tariff rates of 50 per cent on the products or merchandise of any nation which has not already concluded a reciprocity treaty or which does not within six months after the promulgation of this law make tariff concessions to Cuban manufactured tobacco.

This bill also contains provisions in regard to special seals by which the identity of Cuban manufactured tobacco can be clearly proven.

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/14.

The Acting Secretary of State to the American Minister.

No. 270.] DEPARTMENT OF STATE,
Washington, March 21, 1911.

SIR: The Department is in receipt of your No. 637 of February 17 in regard to the bills introduced in the Chamber of Representatives, relative to various modifications in the existing tariff legislation of Cuba.

It does not appear from your dispatch that the Cuban Secretary of State has asked for the views of this Government on the subject. It is proper, however, to put you in possession of them so that you

[1] Not printed.
[2] See article on Sugar, p. 102.
[3] Commercial convention, proclaimed Dec. 17, 1903.

may be able to present them, informally and discreetly, to the Cuban Government as the occasion may arise.

1. No objection can be made to requesting from this Government the amplification of the existing reciprocity treaty. Whether it would be possible to concede greater advantages for Cuban tobacco can not be indicated in advance, nor in fact can it be assumed that this Government will find it expedient to recommend modifications of the treaty. That would depend upon the sentiment existing in the United States and also in Congress. It is desirable to point out, however, that should circumstances favor the amplification of a treaty, it would be necessary to ask material increases in the preferences now given by Cuba on various manufactured articles, the products of the United States, and especially on textiles. It is also desirable for you to point out to the Cuban Government that under Article IV of the reciprocity treaty with the United States, this country would be entitled to respective reductions of such rates of duty as may hereafter be provided in the customs tariff of Cuba. The customs tariff of the Republic of Cuba must be interpreted as including not only customs levied in accordance with the general tariff bill, but the tariff levied pursuant to the commercial or reciprocity treaties which Cuba may make with other countries. That is, the United States will be entitled to the reductions from the customs tariff in the percentages provided in schedules a, b, and c.

2. The question of a treaty for the reciprocal protection of trademarks and patents can be considered on its merits at any time.

3. The proposition to apply a surcharge on the products or merchandise of any nation which has not already concluded a reciprocity treaty with Cuba, or which does not, within six months after the promulgation of this law, make tariff concessions to Cuban manufacturers of tobacco is one that should receive the most careful consideration on the part of the Cuban Government. The complications which would result from Cuba's entering into a reciprocity treaty with other countries in view of the existing treaty with the United States, and the extreme difficulty of adjusting the Cuban tariff with those of other countries so as not to interfere with the preferences given the United States, have been fully explained in previous instructions.

You will be guided by these instructions. Whether the desire of the Cuban Government to secure better terms for manufactured tobacco from other countries could be made effective by a surcharge without entering into reciprocity treaties with the different countries seems uncertain. The Cuban Government probably can determine this matter from its own standpoint.

I am, etc.,

HUNTINGTON WILSON.

File No. 611.3731/28.

The American Minister to the Secretary of State.

No. 748.] AMERICAN LEGATION,
Habana, April 14, 1911.

SIR: I have the honor to report the reintroduction in the Chamber of Representatives of the bill with regard to the "amplification of the

reciprocity treaty between Cuba and the United States for the purpose of obtaining greater customs advantages for Cuban manufactured tobacco."[1]

I have, etc.,

JOHN B. JACKSON.

No. 917.] JUNE 9, 1911.

(Printed under Tobacco. in dispatch 637, above.) Refers to a bill to amend a bill outlined

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No. 986.] JULY 8, 1911.

(Printed under Tobacco. Refers to above bills.)

File No. 611.3731/37.

No. 1116.] AMERICAN LEGATION,
Habana, October 7, 1911.

SIR: I have the honor to report that in a letter dated the 29th ultimo the Cámara de Comercio, Industria y Navegación de la Isla de Cuba, has called the attention of President Gómez to the fact that since December 26, 1908, the reciprocity treaty between Cuba and the United States, which went into effect on December 27, 1903, remains in force only from year to year until denounced by one of the contracting parties, and that this situation is prejudicial to commercial interests, as the possibility of such a denunciation must be constantly kept in mind. Under the circumstances the chamber of commerce (through its president, Sr. Narciso Gelats) urges the Cuban Government to make an agreement with that of the United States through which the situation may be made more stable and the life of the treaty prolonged definitely for a five-year period, with, if possible, additional advantages to Cuban commerce.

Attention is especially called to the question of sugar. It is considered probable that changes will be made in the American tariff within the next few years, and it is feared that the duty on sugar may be materially reduced—that it is even possible that sugar may be put on the free list—and that Cuba would thereby lose the advantage secured by the treaty to her principal article of exportation. Use is made of the argument (already used by us under other conditions) that a reduction in the tariff would also reduce the preferential, and the Cuban Government is urged to make some arrangement through which Cuban sugar can always enter the United States with such a preferential over European sugars as will enable it to retain the American market upon a profitable basis.

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/38.

No. 1134.] AMERICAN LEGATION,
Habana, October 18, 1911.

SIR: Referring to my dispatch No. 1116 of the 7th instant and to previous correspondence (instruction No. 270; dispatch No. 712,[2]

[1] For the previous history of the bill see Tobacco, preliminary statement, p. 108.
[2] Not printed.

etc.) in regard to the amplification and prolongation of the reciprocity treaty between the United States and Cuba, I have the honor to report that in a conversation had with him this morning Señor Sanguily, the Cuban Secretary of State, brought up this subject and asked me if I could obtain from you, by telegraph, an expression of your views as to the possibility of prolonging this treaty definitely for a period of five years, incidentally with greater and more stable advantages for Cuban sugar in return for increased preferential treatment of American products imported into this country. Cuba recognizes the necessity to retain the American market for her sugar, and would be ready to make almost any concession to attain this end.

While requesting a reply by telegraph at the earliest practicable date in order to comply with the wish of Sr. Sanguily,

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/38.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *October 25, 1911.*

In answer to the above dispatch 1134 of October 18 Mr. Adee instructs Mr. Jackson to inform the Secretary of State that when the President returns to Washington the question involving the reciprocity treaty will be brought to his attention, and his and the Department's views will be communicated as soon as may be.

File No. 611.3731/40.

The American Minister to the Secretary of State.

No. 1150.] AMERICAN LEGATION,
Habana, October 25, 1911.

SIR: Referring to my dispatch No. 1134 of the 18th instant, I have the honor to transmit a copy and translation of a note received this morning from the Cuban Secretary of State.

I have, etc.,

JOHN B. JACKSON.

[Inclosure—Translation.]

The Cuban Secretary of State to the American Minister.

DEPARTMENT OF STATE,
Habana, October 25, 1911.

Mr. MINISTER: In continuation of the conversation that I had the honor to have with your excellency a few days ago, I beg that you will inquire of your Government if it considers it convenient and immediately feasible to agree with that of Cuba upon the extension for another five years of the treaty of commercial reciprocity that is still in force, though automatically; and if it would be willing to enter into negotiations with a view to the modfication of the treaty in the sense of providing for greater advantages for some American products and for our sugars and tobacco.

I avail, etc.,

MANUEL SANGUILY.

File No. 611.3731/41.

The American Minister to the Secretary of State.

No. 1155.] AMERICAN LEGATION,
Habana, October 27, 1911.

SIR: Referring to the Department's telegram of October 25, I have the honor to report that I informed the Cuban Secretary of State this morning that—

> Upon the return to Washington of President Taft, his attention will be called to the subject of the reciprocity treaty between the United States and Cuba, and as soon thereafter as practicable the views of the American Government will be communicated to the Cuban Department of State.

In conversation I mentioned to Sr. Sanguily that you preferred that such negotiations in regard to this matter as may eventually take place should be conducted at Washington. To this the secretary made no objection.

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/39.

The Secretary of State to the American Chargé d'Affaires.

DEPARTMENT OF STATE,
Washington, November 2, 1911.

SIR: The Department has received an informal memorandum from the Cuban minister in Washington, as follows:

> The Cuban Government desires to know if President Taft would be inclined to agree with President Gómez on a modification of the present treaty of reciprocity between Cuba and the United States, extending it for a fixed term of five years, but reproducing all its present stipulations; the foregoing to be a preliminary toward the negotiation of another treaty on reciprocal commercial arrangements in which greater advantages be given by Cuba to American products, in compensation for similar concessions to be granted by the United States to Cuban sugar and tobacco, on obtaining the favorable disposition of Congress and public opinion in both countries.

The President is not unmindful of the value of the commercial relations which have been developed during the life of this convention and of its great utility in affording Cuba a market for the island's leading products on better terms than are received by competitors in Europe and elsewhere. He believes that it has also been a useful means of promoting the stability of the Cuban Government and that its advantages are appreciated by the Cuban people. At the same time he is compelled to take note of the frequent complaints of commercial interests of the United States that the advantages given them in the Cuban market are not commensurate with those afforded Cuban products in the markets of the United States. Experience has shown that on many commodities from this country the duties are either too excessive or the preference is not great enough to insure the broader market which should exist in Cuba for American products. It would also seem that some duties might be decreased with advantage to the Cuban consumers and without loss of revenue to the Cuban treasury. This Government does not regard it as practicable to ask the Senate to approve of the renewal of the treaty in its present form for a period of five

years and then before the expiration of that period undertake to modify its terms by negotiating a new treaty which in turn would have to be submitted to the Senate for approval and to the House of Representatives to originate and pass an enabling act to put it into effect if approved by the Senate which would have to concur in the enabling act. The treaty being in effect it would seem that negotiations for a convention which might replace it could be carried on without disturbance of the mutual commerce that obtains under it.

You are instructed to inform the Cuban Government that the President is desirous of maintaining and promoting in every possible way the prosperity of Cuba and of cementing the cordial relations that now exist. He is willing to comply with the request of the Cuban Government in so far as relates to the negotiations of a new convention which will take into account the conditions that have developed since the original treaty was ratified.

The President would prefer that the negotiations shall be conducted through the Department of State in Washington.

I am, etc.,

P. C. KNOX.

The American Chargé d'Affaires to the Secretary of State.

File No. 611.3731/43.

No. 1190.] AMERICAN LEGATION,
Habana, November 13, 1911.

SIR: I have the honor to acknowledge the receipt on the 11th instant of the Department's unnumbered instruction of the 2d instant on the subject of the possible modification of the Cuban reciprocity treaty, and to transmit herewith copy of the note which I have to-day handed to the Cuban Secretary of State in compliance therewith. Mr. Sanguily said that he would take the matter up with President Gómez without loss of time and that he would communicate with me further in the course of a few days.

I have, etc.,

HUGH S. GIBSON,

[Inclosure.]

File No. 611.3731/43.

The American Chargé d'Affaires to the Cuban Secretary of State.

AMERICAN LEGATION,
Habana, November 13, 1911.

YOUR EXCELLENCY: Referring to your excellency's courteous note of the 25th ultimo, inquiring whether my Government considered it convenient and immediately feasible to agree upon the extension for another five years of the treaty of commercial reciprocity, with a view to the modification of the treaty in the sense of providing for greater advantages for some American products and for Cuban sugars and tobacco, I have the honor to inform your excellency that I am now in receipt of instructions from my Government on this subject.

The President is not unmindful of the value of the commercial relations [etc., quoting verbatim (with appropriate changes: from "this Government" to "my Government"; from "the Cuban Government" to "your excellency's Government"; from "this country" to "the United States"; and from "you are instructed" to "I am instructed,") to the end of the Department's unnumbered instructions of Nov. 2].

I avail, etc.,

HUGH S. GIBSON.

File No. 611.3731/43.

The Secretary of State to the American Chargé d'Affaires.

No. 417.] DEPARTMENT OF STATE,
Washington, December 9, 1911.

SIR: Referring to the Department's telegram of December 5, 1911,[1] and instructions of November 2, in regard to the Cuban Government's expression of views concerning the reply of the Department to its request for a renewal and subsequent modification of the reciprocity treaty, it is desirable that the Department be informed without further delay of the views of the Cuban Government.

The Department's instruction of November 2, 1911, was in response to the urgent representations of the Cuban Government, and it is unable to understand the delay in receiving a further reply from that Government. You are therefore instructed, in case a reply has not been made when this dispatch is received, to inquire formally and discreetly as to when an answer may be expected.

I am, etc.,

P. C. KNOX.

File No. 611.3731/47.

The American Minister to the Secretary of State.

No. 6.] AMERICAN LEGATION,
Habana, December 19, 1911.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 417 of the 9th instant, directing the legation to inquire informally and discreetly as to when it may expect to be made acquainted with the views of the Cuban Government in regard to the contemplated negotiations for the modification of the present reciprocity treaty.

In obedience to this instruction, Mr. Gibson yesterday made appropriate inquiries at the department of state, and was informed that the President and the secretary of state were now engaged in consultations with the various commercial interests concerned and with members of the appropriate committee of the Senate. It was added that the matter would be given more concentrated attention during the recess of Congress, which begins to-day, and that it was hoped that the Cuban Government would be ready to enter upon definite negotiations in January.

I have, etc.

A. M. BEAUPRÉ.

SUGAR: PROPOSAL TO ADHERE TO BRUSSELS CONVENTION.

[Extracts from the International Convention[2] Relative to Bounties on Sugar, Signed at Brussels March 5, 1902, by Great Britain, Austria-Hungary, Belgium, France, Germany, Italy, Netherlands, Spain, and Sweden.][3]

ARTICLE III. The high contracting parties bind themselves to limit the surtax (difference between the rate of duty or taxation on foreign

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[1] Not printed.
[2] See Foreign Relations 1902, pp. 80–82; French text in "British and Foreign State Papers 1901–1902, Vol. XCV, pp. 8–9."
[3] Not ratified by Spain nor Sweden; adhered to by Russia in 1907.

sugars and that on domestic sugars) to a maximum of 6 francs per 100 kilograms for refined sugar and on sugars that may be classed as refined, and to 5.50 francs for other sugars * * *.

ARTICLE V. The high contracting parties engage reciprocally to admit at the lowest of their import rates, sugars imported from and produced in the contracting States or such of their colonies or possessions as do not grant bounties * * *.

[Article VIII of Commercial Convention between the United States and Cuba (reciprocity treaty). Concluded December 11, 1902; proclaimed December 17, 1903.] [1]

Article VIII. The rates of duty herein granted by the United States to the Republic of Cuba are and shall continue during the term of this convention preferential in respect to all like imports from other countries, and in return for said preferential rates of duty granted to the Republic of Cuba by the United States it is agreed that the concession herein granted on the part of the said Republic of Cuba to the products of the United States shall likewise be, and shall continue, during the term of this convention, preferential in respect to all like imports from other countries: *Provided*, That while this convention is in force, no sugar imported from the Republic of Cuba, and being the product of the soil or industry of the Republic of Cuba, shall be admitted into the United States at a reduction of duty greater than 20 per centum of the rates of duty thereon as provided by the tariff act of the United States approved July 24, 1897, and no sugar, the product of any other foreign country, shall be admitted by treaty or convention into the United States while this convention is in force at a lower rate of duty than that provided by the tariff act of the United States approved July 24, 1897.

File No. 611.3731/9.

The American Minister to the Secretary of State.

AMERICAN LEGATION,
No. 550.] *Habana, January 6, 1911.*

SIR: I have the honor to transmit herewith a copy and translation of a note just received from the Cuban Department of State. * * *

I have, etc.,

JOHN B. JACKSON.

[Inclosure, translation.]

The Cuban Secretary of State to the American Minister.

HABANA, *January 2, 1911.*

Mr. MINISTER: In order to complete a memorandum which is being prepared by this Department in respect to the propriety of Cuba's adhering to the convention in regard to the control of sugar, signed at Brussels on May 5, 1903,[2] it would like to know your excellency's authoritative opinion as to whether the reduction of [the rates established in] sections 293 and 294 of the Cuban tariff (which refer to the importation of crude and refined sugars), in order to place

[1] See Foreign Relations 1903, p. 375; Malloy's Treaties, 353; Treaties in Force, 1904, p. 221.
[2] Should be March 5, 1902.

the Republic in a position to adhere to that convention, would affect the commercial relations regulated by the reciprocity treaty between Cuba and the United States of America.

I avail, etc.,

MANUEL SANGUILY.

File No. 611.3731/13.

The American Minister to the Secretary of State.

No. 626.] AMERICAN LEGATION,
Habana, February 14, 1911.

SIR: I have the honor to report that Messrs. Quesada and Zayas, respectively ministers at Berlin and Brussels, have been delegated to represent Cuba at the sugar convention which will meet in Brussels in a few days.

In conversation this morning, Señor Sanguily, the Cuban secretary of state, referred again to the request made early in January (dispatch No. 550) for information as to our views in regard to a change in the Cuban duty on sugars. A bill to change these duties is now under consideration in Congress, and was discussed yesterday in the Senate without any vote being taken. Señor Sanguily is very anxious to learn our views before definite action is taken by Congress, in order to avoid possible future complications. The secretary is anxious to effect some arrangement by which other (European and eventually Asiatic) markets may be opened to Cuban sugar, or to bring about a revision of the reciprocity agreement with the United States through which sugar and tobacco would be benefited and the former freed from the domination of the trust. Under the circumstances I have the honor to renew my request for telegraphic instructions in the premises as soon as practicable.

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/16.

The American Minister to the Secretary of State.

No. 646.] AMERICAN LEGATION,
Habana, February 23, 1911.

SIR: While confirming my telegram of the 17th instant,[1] I have the honor to report that after the Senate passed the bill to amend the customs tariff as follows:

No. 293, sugar, raw	$1.00 per 100 kilograms.
No. 294, sugar, refined	.75 per 100 kilograms.

the secretary of state requested me to try again to obtain an answer to the inquiry contained in his note of January 2, to which I referred in my dispatch No. 626 and several previous communications. No answer being received from you, and the sugar convention at Brussels being unwilling to delay action in regard to Cuban sugar beyond the 1st of next April, President Gómez pressed this matter on the Chamber of Representatives and that body passed the bill yesterday before the close of the session. The new law will go into effect upon

[1] Not printed.

its publication in the Official Gazette, and it is probable that the President will sign it and cause it to be published at an early date.

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/13.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *March 4, 1911.*

The Secretary answers the minister's dispatch 626 of February 14 and says that if Cuba should adhere to the Brussels Convention of 1902 the Department assumes that she will not extend the preferential tariff rates on sugar to the European signatory powers, even if they invoke Article V of the Brussels Convention. The minister will so inform the Cuban Government, and will add that, in other words, the Government of the United States will insist that the reciprocity reduction in favor of United States sugars imported into Cuba shall remain preferential and not be extended to sugars from any third country. With this reservation the United States makes no objection to adherence by Cuba to the Brussels Convention.

File No. 611.3731/18.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

HABANA, *March 5, 1911.*

Has the Department considered that although the new Cuban sugar tariff rates make the preferential infinitesimal, Cuban refinement is practically enough to supply the domestic market? Before acting on the instructions of the telegram of March 4 the minister will await answer to the above question.

File No. 611.3731/19.

HABANA, *March 11, 1911.*

The minister again asks what is to be done about sugar, and calls attention to his telegram of March 5.

File No. 611.3731/19.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *March 15, 1911.*

In respone to the minister's telegram of March 11, Mr. Wilson instructs Mr. Jackson to carry out the Department's telegraphic instruction of March 4.

File No. 611.3731/20.

The American Minister to the Secretary of State.

No. 679.] AMERICAN LEGATION,
Habana, March 16, 1911.

SIR: While referring to the Department's telegrams of the 4th and 15th instant, and to mine of the 5th and 11th, I have the honor to report that I called at the Cuban foreign office this morning and informed Secretary Sanguily that—

The American Government assumes that Cuba will maintain the preferential reduction in favor of sugar imported from the United States, as provided by the reciprocity treaty, and will not extend the preferential treatment to sugar from any third country even if the signatory powers should invoke article 5 of the Brussels Convention to claim it.

On receiving my communication Sr. Sanguily said that he would study the question carefully and would inform me as to his views as soon as practicable, after considering Cuba's obligations with especial reference to Article VIII of the commercial convention (reciprocity treaty) of December 11, 1902.

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/21.

The American Minister to the Secretary of State.

No. 685.] AMERICAN LEGATION,
Habana, March 19, 1911.

SIR: Referring to my 679, I have the honor to transmit herewith a copy and translation of a personal note from Secretary Sanguily received last night, in reply to the communication made by me on March 16 with regard to sugar. * * * The secretary errs in stating that he brought this matter to my attention last October, but he did so early in January, several weeks before any bill in regard to it was introduced in the Cuban Congress. No instructions came, however, until the receipt of your telegram, although the matter had been treated by me in dispatches Nos. 550, 554,[1] 582,[1] 589,[1] 616,[1] 626, 646, and 657,[1] during the months of January and February. * * * I can understand the possible necessity of making Cuba maintain preferential treatment as long as the treaty is in force and there is any duty at all on sugar, but are we obliged to object if the entire duty is removed? * * * I venture to suggest this solution to your consideration, for as long as even infinitesimal preferential treatment maintains, Cuba can be prevented from adhering to the Brussels Convention by her competitors. Or would we consent to a revision of the reciprocity treaty as already suggested by Sr. Sanguily on several occasions? * * *

I have, etc.,

JOHN B. JACKSON.

[1] Not printed.

[Inclosure—Translation.]

The Cuban Secretary of State to the American Minister.

STATE DEPARTMENT,
Habana, March 17, 1911.

MY DEAR MR. JACKSON: I beg personally to draw your attention to one of the two notes which you kindly handed me the day before yesterday—the one referring to the preferential reduction upon sugar imported from the United States. The indication conveyed in that note places the Cuban Government in a very difficult situation. You will recall that ever since it was known here, last October, that the next Brussels convention would penalize Cuban sugars if we should not place ourselves in the position previously demanded, I approached you, relying upon the invariable kindness with which you have always treated me, with the request that you inquire of the United States Government its opinion as to whether any step upon our part that should lower the duties on sugars imported into Cuba could, in the judgment of the American Government, affect the benefits accorded American industry under the treaty of commercial reciprocity in force.

As I took the liberty on several occasions to recall the matter to your attention, and as I received no reply of any kind from your Government indicating that such a measure might be regarded as contrary to the terms of the treaty in question, the Cuban Government legitimately understood that no difficulty existed and that indeed the matter was of no real interest to the United States.

In the circumstances the Cuban Government thought itself free to proceed as the menaced interest of Cuba's principal industry recommended; hence, upon recommendation of one of the departments of the Government, the President sent a message to Congress recommending a measure to avert the Brussels menace.

In pursuance of that message, Congress passed and the President of the Republic sanctioned the law reducing the duty on imported sugar, published in the Gaceta Oficial of February 25 this year.

Neither when the message in question became public, nor during the discussion of the bill to which it gave rise, nor from the date (ut supra) of the promulgation of the law until the 16th instant, had this Department received any intimation from the Government of the United States. Therefore, despite its purpose to avoid all difficulty, it was impossible that the Cuban Government should not consider that, in the opinion of the United States Government, it was authorized to assume itself absolutely free to act as it did in aid of the exportation of Cuban sugar to European markets, especially in view of the fact that, the importation of sugar from the United States to Cuba being of such insignificant quantity, we inferred that this circumstance was the reason why, during such a long period, the American Government should have abstained from offering timely suggestions. The Cuban Government, at least, was justified in this inference, since as a matter of fact the total importation of sugar from the United States to Cuba during the entire (fiscal) year 1908–9 amounted to but 1,565 pounds, valued at $74, and of refined sugar 40,422 pounds, valued at $1,830.

And the Cuban Government has acted in such good faith that in reducing the sugar schedule of the tariff it went even further than the requirements of the Brussels Convention.

But now, my dear Mr. Minister, your note creates for Cuba and her Government a situation as delicate as it is embarrassing, for since even in the case of an American export so utterly insignificant as that of sugar, as shown by the figures I have quoted above, the Government which you so worthily represent takes the stand indicated in your note of the 16th—with which Cuba is now for the first time acquainted—the Cuban Government must apply again to Congress to reestablish the former status, to the consequent amazement of Europe, our own damage, and with no compensating advantage to American industry that would justify the exaction of such a painful sacrifice upon the part of our Government. Unless, indeed, the American Government, in whose sense of justice and unquestioned and positive friendship our country so thoroughly confides, shall overlook this incident, of which we do not feel that we are in the least responsible, especially when, by waiting a little, it may turn out that the law passed by the Cuban Congress is inefficacious for the end contemplated because of the possible predominance among the signatories of the Brussels Convention of the idea that Cuba is favored by advantages regarded by them as

"bounties" ("Primas") in the terms of the treaty of commercial reciprocity with the United States, rather than by the protection of her own tariff.

I have taken the liberty, by dear Mr. Jackson, to offer you this brief statement of the situation brought about by the note of your Government, with the idea of getting around these unexpected difficulties, so that, without detriment to legitimate interests, our dignity shall not suffer, and, above all, to the end that by no means shall any alteration occur in the affectionate, sincere, and cordial friendship which binds our countries and their Governments, with the assurance in advance that for our part we wish to preserve it immutable.

And I embrace, etc.,

MANUEL SANGUILY.

File No. 611.3731/21.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *April 8, 1911.*

In response to the minister's dispatches 679 and 685, the Secretary says that the Department of State has no power to waive the American tariff preference on sugar or any other article included in the treaty with Cuba. Such waiver would be a partial abrogation of that treaty, which would require the concurrence of the legislative branch of the Government.

In regard to the minister's suggestion that the entire duty be removed from sugar, it raises difficulties involved in a case pending in the Supreme Court of the United States; the Department therefore considers it an inappropriate time for discussing the subject.

File No. 611.3731/25.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

HABANA, *April 9, 1911.*

The minister is not sure that he exactly understands the Secretary's telegram of April 8 and asks: Does it mean that the American Government does not object to the reduction of the Cuban duties on sugar that was made in February, provided that proportional preferential reduction in favor of the United States is maintained by Cuba and provided that the United States does not insist upon a return to the status quo ante?

File No. 611.3731/25.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *April 12, 1911.*

That is the meaning of the telegram.

File No. 611.3731/27.

The American Minister to the Secretary of State.

No. 743.] AMERICAN LEGATION,
Habana, April 13, 1911.

SIR: I have the honor to acknowledge the due receipt of your telegrams of the 8th and 12th instant, in regard to the Cuban duty

on sugar, and to confirm my telegram of the 9th, to which your second telegram was an affirmative reply. From the Department's telegrams of March 4 and 15, it had been understood by this legation (and the Cuban secretary of state) that we intended to insist upon the maintenance of our preferential as heretofore, which meant that Cuba must repeal the law passed in February reducing the duty. This would have caused great embarrassment to the Cuban Government.

This morning I called on Secretary Sanguily and gave him the memorandum of which a copy is inclosed herewith. The secretary was much pleased at being relieved from what had appeared to him to be a most embarrassing situation, and asked me to express his grateful appreciation to you for your position, which is now thoroughly understood. He said that Cuba would always maintain preferential treatment of American products in accordance with our reciprocity treaty. He thought that there was slight chance of Cuba's signing the Brussels Convention, as it was claimed that the treaty itself created what was practically a premium on Cuban sugar. Cuba has now done all that she could to conform to the wishes of the signatory powers and must accept their decision. Señor Sanguily said that personally he did not see that it would be advantageous to Cuba to adhere to the convention, but that interested parties had wished for some action which might possibly free Cuba from the domination of the "Sugar Trust," the present situation being that the 20 per cent preferential accorded by treaty to Cuban sugar imported into the United States benefits the trust to a greater extent than it does the producer.

The suggestion that Cuba put sugar on the free list was made by Señor Sanguily some time ago. No reference was made to it in our conversation this morning, and I shall not bring it up myself in any future conversation.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

File No. 611.3731/27.

The American Minister to the Cuban Secretary of State.

[Memorandum.]

HABANA, *April 13, 1911.*

The American Government sees no objection to Cuba's signing the Brussels (sugar) Convention, provided that she does not extend to any other power the preferential rates accorded by treaty to American sugar, even if other powers should claim them under article 5 of the convention. The American Executive can not waive this preferential treatment, as such a waiver would amount to a partial abrogation of the reciprocity treaty, which could not be made without the consent of the Senate. The American Government does not, however, object to the reduction in the Cuban duty on sugar (and the consequent reduction in the preferential) which was made in February, and does not make any demand for the reestablishment of the former status.

NOTE.—The remaining correspondence, as it refers more directly to the reciprocity treaty as a whole than to the item of sugar, will be found under Reciprocity Treaty, except a few references to sugar in the article on Tobacco.

TOBACCO.[1]

On January 6, 1911, in his dispatch No. 550, the American minister at Habana transmitted to the Secretary of State a note[2] from Señor Sanguily, the Cuban secretary of state, dated January 2, 1911, wherein the Government of the United States is requested to express its opinion as to whether, if Cuba were to reduce the tariff on crude and refined sugars sufficiently to enable that Government to adhere to the Brussels Sugar Convention, such act would violate the reciprocity treaty between Cuba and the United States.

This request was repeated on February 14 and reported in dispatch No. 626,[1] which also reported that there was before the Cuban Congress a bill which, among other things, had to do with this question; and on February 17, in his dispatch No. 637,[3] the minister set forth the provisions of the bill, showing that it contemplated:

(1) Requesting of the United States an amplification of the reciprocity treaty in order to obtain for tobacco greater advantages in return for concessions in regard to other American merchandise;

(2) A treaty protecting trade-marks and patents;

(3) A surcharge of 50 per cent of existing tariff rates on products or merchandise of any nation with which Cuba shall not have concluded a reciprocity treaty, or which shall not within six months make tariff concessions to Cuban manufactured tobacco;

(4) Provision for the protection of seals by which the identity of Cuban tobacco could be clearly proved.

No response being received from Washington, the Cuban Congress on February 22 enacted a bill reducing the tariff on sugar, as reported in dispatch No. 646.

On March 21 the Secretary of State replied to the request of the Cuban secretary of state, of January 2, and also to those set forth in the above-mentioned bill in dispatch 637. This response is contained in dispatch 270,[3] where the Secretary said in answer to (1) that "whether it would be possible to concede greater advantages for Cuban tobacco can not be indicated in advance, nor, in fact, can it be assumed that this Government will find it expedient to recommend modifications of the treaty."

To the second item no objection was made.

To the third the Secretary replied as follows:

> The proposition to apply a surcharge on the products of merchandise of any nation which has not already concluded a reciprocity treaty with Cuba, or which does not, within six months after the promulgation of this law, make tariff concessions to Cuban manufacturers of tobacco, is one that should receive the most careful consideration on the part of the Cuban Government. The complications which would result from Cuba's entering into a reciprocity treaty with other countries in view of the existing treaty with the United States, and the extreme difficulty of adjusting the Cuban tariff with those of other countries so as not to interfere with the preferences given the United States, have been fully explained in previous instructions.

"The Department," he continued, in a telegram of April 8,[2] "has no power to waive the American tariff preference on sugar or any other article included in the treaty with Cuba, since such waiver

[1] As many of the dispatches from the legation concerning tobacco refer also to the reciprocity treaty and to sugar, their insertion here would repeat much irrelevant matter and they are accordingly referred to in footnotes.

[2] See article on "Sugar," pp. 101, 102, 105.

[3] See article on "Reciprocity treaty," p. 94.

would be a partial abrogation of that treaty, which would require the concurrence of the legislative branch of the Government"; and on the 12th he instructed the minister that there was no objection to the reduction in Cuban duties on sugar, provided proportional preferential reduction was maintained in favor of the United States.[1]

On April 14 the minister reported in his dispatch 748[2] the reintroduction of the bill regarding amplification of the reciprocity treaty in order to favor Cuban manufactured tobacco. The correspondence then continues as follows:

File No. 611.3731/28.

The Secretary of State to the American Minister.

No. 305.] WASHINGTON, *May 8, 1911.*

SIR: The Department has received your No. 748 of the 14th ultimo [etc.].

In reply you are referred to the third paragraph of the Department's instruction to you, No. 270, of March 21 last.[2]

I am, etc.,

P. C. KNOX.

File No. 611.3731/35.

The American Minister to the Secretary of State.

AMERICAN LEGATION,
No. 917.] *Habana, June 9, 1911.*

SIR: Referring to my dispatch No. 637, of February 17, 1911,[2] I have the honor to report that the committee on agriculture, industry, and commerce of the Cuban Chamber of Representatives has now made a report (dated June 6) upon the bill which was introduced during the last session of the former Congress in regard to (1) the revision of the reciprocity treaty with the United States, (2) the conclusion of a treaty for the protection of trade-marks and patents, (3) the application of a tariff surcharge of 50 per cent in certain cases, and (4) the introduction of especial seals to identify Cuban tobacco, etc., upon importation. This bill is distinct from that in regard to a 30 per cent tariff surcharge, which has been the subject of more or less frequent correspondence.

The committee mentioned above has reported in favor of authorizing the executive (1) to request the United States Government to amplify the existing reciprocity treaty, with a view to obtain greater advantages for Cuban tobacco in exchange for concessions in regard to American merchandise which is not especially benefited at present, (2) to invite the United States to conclude a treaty for the reciprocal protection of trade-marks and patents, and (3) to apply a surcharge upon existing tariff rates of 30 per cent on the products or merchandise of any country which has at present no reciprocity treaty with Cuba, or which does not make tariff concessions in favor of Cuban tobacco within six months after the promulgation of this law. The committee has further advocated the proposal to introduce especial stamps (and seals) to show the identity of Cuban tobacco for the purpose of preventing the falsification of Cuban trade-marks in foreign countries and the fraudulent sale of foreign tobacco as

[1] See article on "Sugar." [2] See article on "Reciprocity treaty," p. 94.

being of Cuban production. These stamps are to be printed in Cuba (the contract to be given through public bids) and their issue and application are to be under Government control and are to be sold to manufacturers—one half of the proceeds of the sale being to pay for printing, etc., and the other for the maintenance of the central office of the "Unión de Fabricantes de la Isla de Cuba."

A further provision of the bill requires all manufacturers ("todo manufacturero") to employ native Cuban labor to the extent of at least 50 per cent.

In view of the heat at this season of the year and the difficulty encountered in maintaining a quorum, I do not think it probable that Congress will act upon this measure during its present session. A motion to close the session on the 20th instant is under consideration at present.

I have, etc.,

JOHN B. JACKSON.

File No. 611.3731/36.

The American Minister to the Secretary of State.

No. 986.] AMERICAN LEGATION,
Habana, July 8, 1911.

SIR: Referring to my dispatch No. 917, of the 9th ultimo, and to previous correspondence in regard to the revision of the reciprocity treaty between the United States and Cuba, and the imposition of a tariff surcharge in certain cases, I have the honor to report that the bill in question duly passed the Cuban Chamber of Representatives after the surcharge provision had been stricken out. No action was taken on the bill by the senate, however, and consequently it goes over until congress meets again in November.

I have, etc.,

JOHN B. JACKSON.

U. S. NAVAL STATION AT GUANTÁNAMO.[1]

File No. 811.34537.

Agreement between the United States and Cuba for lease of coaling or naval stations, February 16/23, 1903.

[Extract.]

The United States of America and the Republic of Cuba, being desirous to execute fully the provisions of Article VII of the act of Congress approved March 2, 1901, and of Article VII of the appendix to the constitution of the Republic of Cuba promulgated on the 20th of May, 1902, which provide:

ARTICLE VII. To enable the United States to maintain the independence of Cuba and to protect the people thereof, as well as for its own defense, the Cuban Government will sell or lease to the United States the lands necessary for coaling or naval stations at certain specified points to be agreed upon with the President of the United States—

have reached an agreement to that end as follows:

ARTICLE I. The Republic of Cuba hereby leases to the United States, for the time required for the purposes of coaling and naval

[1] Foreign Relations, 1903, pp. 350–351; Malloy's Treaties I, 358, 360, and 364; Compilation of Treaties in Force, 1904, pp. 225 and 227.

stations, the following-described areas of land and water situated in the island of Cuba.

1st. In Guantánamo (see Hydrographic Office chart 1857) [description].

2nd. In Northwestern Cuba (see Hydrographic Office chart 2036).

In Bahía Honda (see Hydrographic Office chart 520b) [description].

ARTICLE II. The grant of the foregoing article shall include the right to use and occupy the waters adjacent to said areas of land and water, and to improve and deepen the entrances thereto and the anchorages therein, and generally to do any and all things necessary to fit the premises for use as coaling or naval stations only, and for no other purpose.

Vessels engaged in the Cuban trade shall have free passage through the waters included within this grant.

ARTICLE III. While on the one hand the United States recognizes the continuance of the ultimate sovereignty of the Republic of Cuba over the above-described areas of land and water, on the other hand the Republic of Cuba consents that during the period of the occupation by the United States of said areas under the terms of this agreement the United States shall exercise complete jurisdiction and control over and within said areas, with the right to acquire (under conditions to be hereafter agreed upon by the two Governments) for the public purposes of the United States any land or other property therein by purchase or by exercise of eminent domain with full compensation to the owners thereof.

Lease of Land and Water at Guantánamo and Bahía Honda.

[Signed July 2, 1903; ratifications exchanged at Washington October 6, 1903.]

[Extract.]

The United States of America and the Republic of Cuba, being desirous to conclude the conditions of the lease of areas of land and water for the establishment of naval and coaling stations in Guantánamo and Bahía Honda which the Republic of Cuba made to the United States by the agreement of February 16/23, 1903, * * * have agreed upon the following articles:

ARTICLE I. * * * Paragraph 2. All private lands and other real property within said area shall be acquired forthwith by the Republic of Cuba.

Paragraph 3. The United States of America agrees to furnish to the Republic of Cuba the sums necessary for the purchase of said private lands and properties and such sums shall be accepted by the Republic of Cuba as advance payment on account of rental due by virtue of said agreement.

ARTICLE III. The United States of America agrees that no person, partnership, or corporation shall be permitted to establish or maintain a commercial, industrial, or other enterprise within said areas.

NOTE.—The first pertinent correspondence after the signing of the foregoing lease is with the Navy Department, which on April 4,

1907, transmitted for the consideration of the Department of State a special report made on March 25, 1907, by the joint board, in which the importance of making certain changes in the boundaries of the naval station at Guantánamo is urged. (File No. 811.34537.) It was therein requested that diplomatic negotiations be entered into with Cuba in order to secure the assent of that Government to the proposed changes, and a chart was inclosed showing the then boundary and the one proposed. The request was renewed by the Navy Department on July 13, 1909.

The State Department on July 17, 1909 (instruction No. 265), instructed the American minister at Habana to open negotiations for obtaining the assent of the Government of Cuba to the changes of boundary desired.

In reply the minister stated (Sept. 16, 1909) that he had, August 28, 1909, addressed the foreign office on the subject, but anticipated opposition to the request, giving his reasons and asking for instructions.

On May 31, 1910, the joint board made a supplementary report recommending the relinquishment of the Bahía Honda leasehold in exchange for the enlargement of the boundaries at Guantánamo, whereupon, June 3, 1910, the Navy Department conveyed that recommendation to the Department of State.

In pursuance of the Navy Department's recommendation the Secretary of State instructed the American minister as follows:

File No. 811.345/24.

The Acting Secretary of State to the American Minister.

No. 114.] WASHINGTON, *August 18, 1910.*

SIR: Referring to previous correspondence [etc.] you are instructed again to take up with the Cuban foreign office the question of the enlargement of the naval station at Guantánamo, emphasizing the feeling of this Government that, for the reasons stated in the inclosed report[1] of the joint board and set forth in greater detail in previous correspondence with your legation, the proposed additional area is urgently needed to place the United States in a position to fulfill the stated purpose of the original lease of this station, namely: "to enable the United States to maintain the independence of Cuba and to protect the people thereof as well as for its own defense."[2]

In this connection, you will invite attention to the identical provisions of Article VII of the act of Congress approved March 2, 1901, and of Article VII of the Appendix to the Constitution of the Republic of Cuba, promulgated on the 20th of May, 1902, that for the above-mentioned purpose "the Cuban Government *will* sell or lease the lands necessary for coaling or naval stations at certain specified points to be agreed upon with the President of the United States."

You will also take notice of the recommendation of the joint board, which has been approved by the Secretaries of the Navy and War, regarding the possible relinquishment of the leasehold of the United States to land at Bahía Honda, and if, in your judgment, such

[1] Not printed.
[2] See Article VII of agreement, already quoted.

proposed relinquishment would tend to overcome the reluctance heretofore expressed by the Cuban Government to consider the question of leasing the additional desired area at Guantánamo, you will bring this phase of the situation to the attention of the foreign office, stating that it is the opinion of the United States Government that the leased area at Bahía Honda is more than equal in value to the desired addition at Guantánamo and, therefore, that this, aside from all other consideration, should prove a sufficient consideration to induce the Cuban Government to yield to the wishes of the United States in this matter.

At the same time, you may say to the foreign office that, in deference to its wishes, as heretofore expressed to you, the Secretary of the Navy has revoked the permit issued to E. P. Pawley & Co. to conduct a mercantile business within the limits of the Guantánamo Reservation, such revocation to become effective within a reasonable time granted for closing out the business. This action has been taken notwithstanding the opinion of the Secretary of the Navy that such permission was not in violation of the provisions of Article III of the lease in question,[1] since it was granted solely for the purpose of providing by the most expedient means for supplying the needs of officers, men, and employees of the United States on duty at Guantánamo, and was therefore regarded as within the authority granted by Article V of the lease, to import into the leased area "for exclusive use and consumption therein" free of customs duties or other fees or charges "material of all kinds, merchandise, stores, and munitions of war."

In conclusion you will impress upon the foreign office the importance which is attached by the United States Government to the desired addition to the Guantánamo station, as in the best interests of both the Governments concerned and express the earnest wish of the Government of the United States that the Cuban Government will look upon the matter in this light.

I am, etc.,

HUNTINGTON WILSON.

File No. 811.34537/25.

The American Minister to the Secretary of State.

[Extract.]

No. 309.] AMERICAN LEGATION,
Habana, August 27, 1910.

SIR: I have the honor to acknowledge the receipt this morning of the Department's instruction No. 114, of the 18th instant, and to state that unless instructed to the contrary I shall await the result of the elections which take place on November 1, before taking up the question of an enlargement of our naval station at Guantánamo. * * *

Unless the foreign office should call renewed attention to the E. P. Pawley & Co. case, I shall for the present say nothing about the revocation of the permit by the Secretary of the Navy.

I have, etc.,

JOHN B. JACKSON.

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[1] See this article, hereinbefore quoted.

File No. 811.34537/29.

No. 426.] AMERICAN LEGATION,
Habana, October 31, 1910.

SIR: Referring to my dispatch No. 380,[1] of the 3d instant, I have the honor to report that Mr. Meyer, the Secretary of the Navy, has requested me to defer taking up the question of obtaining an enlargement of the naval station at Guantánamo until after he had inspected the same, as he is by no means certain that he considers the proposed enlargement desirable. Under the circumstances, although I had expected to take this matter up during the next few days, I shall await a confirmation of the Department's instruction No. 114, of August 18, 1910, before taking any action in the premises. Please inform me if I am correct in understanding that it is the fixed intention of the Department to relinquish the leasehold to land at Bahía Honda if the Guantánamo enlargement should be granted.

I have, etc.,

JOHN B. JACKSON.

File No. 811.34537/38.

No. 502.] AMERICAN LEGATION,
Habana, December 11, 1910

SIR: While referring to previous correspondence, and in order that there may be no misunderstanding, I have the honor to inform you that I have not taken up officially in any way with the Cuban Government the question of the enlargement of our naval station at Guantánamo, and the possible renunciation of the Bahía Honda lease. Clippings from La Lucha, which have been sent the Department in the usual way, would appear to indicate that I have already begun negotiations in the premises.

I have, etc., JOHN B. JACKSON.

File No. 811.34537/40.

The Secretary of State to the American Minister.

No. 212.] WASHINGTON, *January 7, 1911.*

SIR: Referring to previous correspondence, and especially to the Department's No. 114, of August 18, 1910, instructing you to take up with the Cuban Government the desired enlargement of the United States naval station at Guantánamo, offering as an inducement, if necessary, to relinquish the tract leased to the United States for use as a naval station at Bahía Honda, I inclose herewith a copy of a letter from the Navy Department, answering one by which this Department communicated to it your confidential dispatch No. 508, of the 14th ultimo,[1] which was duly received by the Department, and in which you state that the foreign office desires to be informed whether it would be agreeable to the United States to receive from the Cuban Government a request that it relinquish the lease of the Bahía Honda property.

[1] Not printed.

This letter from the Navy Department, in which it states that it does not consider that it would be expedient to renounce the Bahía Honda lease unqualifiedly and without compensation, will serve as your further instructions with reference to this matter.

I am, etc.,

P. C. KNOX.

[Inclosure.]

The Acting Secretary of the Navy to the Secretary of State.

WASHINGTON, *December 22, 1910.*

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant,[1] inclosing a copy of a dispatch, No. 508, dated the 14th instant, from the American minister at Habana, communicating an inquiry of the Cuban secretary of state as to whether it would be agreeable to the United States to receive a request from Cuba to annul the lease of the area comprised in the proposed naval station at Bahía Honda and to cede to Cuba the rights which were granted to this Government. In reply I beg to invite attention to this Department's letter of June 3, 1910, relative to procuring an extension of the limits of the naval station, Guatánamo, Cuba, and recommending that, if necessary, the present reservation at Bahía Honda be surrendered in exchange for such extension at Guantánamo, should such surrender serve to facilitate favorable action in obtaining the desired extension.

The Department does not consider that it would be expedient to renounce the Bahía Honda lease unqualifiedly and without compensation.

Very respectfully.

BEEKMAN WINTHROP.

File No. 811.34537/42.

The American Minister to the Secretary of State.

No. 567.] AMERICAN LEGATION,
Habana, January 14, 1911.

SIR: I have the honor to acknowledge the receipt this morning of your instruction No. 212, of the 7th instant, and although I am still without any acknowledgment whatever of my dispatch No. 426, of October 31, I felt at liberty to consider that this last instruction confirmed those of August 18 (No. 114), in regard to the general subject of the enlargement of the naval station at Guantánamo; and I have accordingly just had a conversation with Sr. Sanguily, the Cuban secretary of state, in regard to it. I told Sr. Sanguily that the United States was prepared to consider the renunciation of the Bahía Honda lease in exchange for the enlargement of the station at Guantánamo, and the secretary replied that he was ready to enter upon negotiations on that basis and requested me to let him know exactly what enlargement we desired. He spoke of certain land transactions which had recently taken place (dispatch No. 461)[1] and intimated that it might be difficult for Cuba to find the money necessary to expropriate what we want. He asked if the United States could in any way—by loan or advance or purchase outright—facilitate this matter.

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[1] Not printed.

The secretary also spoke of the jurisdiction over the waters of Guantánamo Harbor, in regard to which he thought certain changes desirable, so that friction might be avoided when Cuban vessels passed through American waters in entering the port. In view of the proposed fortification of the heights back of Guantánamo, does our Navy Department think it necessary that the "American water" should extend from shore to shore at the mouth of the harbor, or would it release the western part of the entrance to the port? * * * The moment appears to me to be a propitious one for us to obtain the desired enlargement of the Guantánamo station, and I think the Cuban Government is prepared to act as expeditiously as we could wish. With your instructions it would be well to send me a map (chart) showing the present limits of the station and exactly what enlargement we want.

While adding that I have read the draft of this dispatch to Sr. Patterson, chief of "protocol" of the state department, who was present during my interview with Sr. Sanguily this morning, and who has assured me that I properly understood the points mentioned by the secretary,

I have [etc.],

JOHN B. JACKSON.

File No. 811.34537/47.

[Extract.]

No. 594.] AMERICAN LEGATION,
Habana, January 24, 1911.

SIR: I have the honor to acknowledge the receipt on the evening of the 20th instant of your telegram[1] confirming instructions Nos. 265 of July 17, 1909, and 114 of August 18, 1910, already sent this legation in regard to the desired enlargement of our naval station at Guantánamo. The Department will recall that during the visit made to Cuba by Mr. Meyer, the Secretary of the Navy, last October, I reported that he had requested me to defer action in this matter until after his return to Washington and that consequently I should await the confirmation of previous instructions (my dispatch No. 426). The receipt of my dispatch in the premises has never been acknowledged, and although I was informed as to the substance of President Taft's conversation with Sr. Sanguily at Guantánamo in November, I did not feel at liberty to take this matter up formally in view of the conflicting reports in the newspapers in regard to the intentions of the administration.

I have now the honor to state that on the 21st instant I addressed a note to the Cuban secretary of state, taking the matter up in a formal way, asking for the enlargement of the station to the boundaries set by the joint board in the report signed by Admiral Dewey on March 25, 1907, and stating that if this enlargement was granted the United States was prepared to renounce the Bahía Honda lease.

I repeat the request already made by telegraph to be furnished, as soon as possible, with duplicate copies of map showing exactly what enlargement is desired.[2] * * *

I have, etc.,

JOHN B. JACKSON.

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[1] Not printed.

[2] The omission is irrelevant.

File No. 811.34537/46.

The Secretary of State to the American Minister.

No. 2.] WASHINGTON, *January 25, 1911.*

SIR: Referring to the Department's Nos. 114, of August 18, 1910, and subsequent correspondence regarding the desired enlargement of the United States naval station at Guantánamo, I inclose herewith a copy of a letter[1] from the Secretary of the Navy, transmitting two copies of a chart showing the present limits of the station and the proposed extension, in accordance with the recommendation of the joint board of the Army and Navy. These charts are sent to you herewith under a separate cover.

The Secretary of the Navy states that his department is of the opinion that the entire entrance to Guantánamo Bay should be under the control of the United States, including not only the west shore of the entrance, but also the waters at the entrance of the bay; and you will accordingly keep this point in view in such negotiations as may occur in future in relation to the matter.

I am, etc.

P. C. KNOX.

File No. 811.34537/49.

The American Minister to the Secretary of State.

No. 623.] AMERICAN LEGATION,
Habana, February 11, 1911.

SIR: Referring to previous correspondence in regard to the enlargement of our naval station at Guantánamo, I have the honor to transmit herewith a copy and translation of a confidential note dated the 8th instant, which I received from Sr. Sanguily, the Cuban secretary of state, last night. In this note Sr. Sanguily reiterates what he has already said to me (dispatch No. 567, of Jan. 14) on various occasions. As will be seen, the Cuban Government understands why the enlargement is wanted, recognizes the necessity for it, and is practically ready to make an exchange for the land at Bahía Honda without considering the difference in size of the two areas concerned. For various reasons, however, and notably in order to make the exchange popular, Sr. Sanguily hopes that the American Government will be willing to make certain concessions which will appear to have a compensatory character and would be of effect in influencing public opinion.

In his note the secretary calls attention to the fact that no reference is made in our proposal to the question of the jurisdiction of the entrance to the Bay of Guantánamo. I venture to suggest to you the advisability of making some arrangement which would be satisfactory to us, and at the same time agreeable to the Cubans, by which Cuban vessels entering a Cuban port would be (theoretically at least) spared the mortification of passing through what Sr. Sanguily called "American waters." The entrance to the harbor and the whole of the west shore would appear to be entirely dominated

[1] Not printed.

from the heights which are to be included in the new extension, and I think it might be possible for us to renounce the west shore and jurisdiction of a strip of navigable water along the western side of the channel, in the time of peace—with appropriate regulations in regard to anchorage and the construction of any buildings, etc., within the limits of the original leasehold—reserving to ourselves the right to occupy the land and close the port whenever considered necessary through the outbreak of hostilities. I make this suggestion with a hope that the Secretary of the Navy will reconsider his decision in the premises. * * *[1]

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

The Cuban Secretary of State to the American Minister.

[Translation—Extract.]

No. 13.] HABANA, *February 8, 1911.*

MR. MINISTER: In reference to the conversation which we had when your excellency brought me your note in regard to the new limits to be given to the Guantánamo naval station, it is a real pleasure to me to advise your excellency that the steps preliminary to the final transaction are being taken, with the observation at the same time that, according to said note, the suggestions that I had the honor to make to you concerning the jurisdiction of the waters must be dropped, since the limits proposed comprise the two mouths (the two shores of the mouth) of the bay mentioned.

The form in which this negotiation, of such great interest to both Republics, has been put forward and is progressing—an additional evidence of the good disposition of the United States and of the keen and sincere friendship with which Cuba responds—encourages me to offer to your excellency the following points, the importance of which in the relations of the United States will not escape the perspicacity of your excellency.

[Here follow references to two matters that appear in this volume under the titles "Claim for the cost of intervention in Cuba" and "Sovereignty of the Isle of Pines"; also reference to newspaper rumors of the possibility of a third intervention which, says the note, "although the act of unscrupulous speculators and business interests alarm and disconcert the nation, wound patriotic sentiment, and nourish misgivings and distrust in the minds of all." The note then suggests a clearing up of these three problems by—

A denial by the United States Government of intention to press the reported claim for cost of intervention;

An agreement with Cuba concerning the sovereignty of the Isle of Pines;

An agreement with Cuba explicitly defining the conditions "that shall govern the exercise of the right of intervention in the Cuban State"; for although the Platt amendment, the Appendix to the Cuban Constitution, and the treaty with the United States all express the ends, none of them define the conditions that may justly oblige the United States to intervene or Cuba to accept intervention. The note then proceeds:]

I take the liberty to advise your excellency that the Cuban Government and the nation would see in all the declarations indicated a worthy and valuable compensation for the concessions contemplated in favor of the United States.

The Government does not take into account the remarkable disproportion between the area of 50 caballerías at Bahía Honda, which the United States would renounce, and the considerably greater area at Guantánamo by which it would augment the station, because the Government is convinced that the United States is actuated to propose enlarging the area of the naval station not only by the obligations imposed upon it by the Platt amendment to protect Cuba's independence, but also by its own needs of self-defense and foreign policy. But the generous spirit of this point of view which Cuba adopts

[1] The omission is printed under "Sovereignty of Isle of Pines," p. 136.

authorizes it to hope to receive from the United States the compensation indicated, which would so fully satisfy public sentiment.

I avail myself, etc.,

MANUEL SANGUILY.

File No. 811.34537/50.

The American Minister to the Secretary of State.

No. 644.] AMERICAN LEGATION,
Habana, February 22, 1911.

SIR: I have the honor to acknowledge the receipt yesterday of the Department's instruction No. 238, of the 17th instant,[1] and to state in order that any subsequent misunderstanding may be prevented that the whole question of the extension of our naval station at Guantánamo will remain in abeyance until some reply can be made in regard to the matters referred to by the Cuban secretary of state in his note of which a copy and translation were inclosed in my dispatch No. 623, of February 11. While favorably disposed toward granting what we want, the Cuban Government is anxious to obtain some real or apparent concession in return, which would contribute to make the extension, etc., popular.

I have, etc.,

JOHN B. JACKSON.

File No. 811.34537/51.

The Secretary of the Navy to the Secretary of State.

WASHINGTON, *February 28, 1911.*

SIR: 1. Referring to the Department of State's letter of the 16th instant,[1] forwarding for the consideration of this Department a copy of a dispatch dated the 11th instant, with a translation of its inclosure, from the American Minister at Habana, with reference to the proposed extension of the naval station at Guantánamo, and with particular reference to the question as to whether or not it might be possible for this Government to renounce the west shore and jurisdiction of a strip of navigable water along the western side of the channel in time of peace, I have the honor to state that this Department is of the opinion that the military necessities connected with the naval base at Guantánamo are such as to render it inadvisable for the United States to surrender any of its jurisdiction over the shores and waters of the bay.

2. There are now two Army reservations on the western shores, where considerable work preparatory to fortification has already been done, and it is impossible to determine at the present time what other places on the shores future developments may make it necessary to fortify.

3. It is believed that the fact that jurisdiction has been explicitly granted to the United States, but that the ultimate sovereignty of Cuba is nevertheless acknowledged, makes the situation so clear that it will not be difficult to issue instructions to the commandant at Guantánamo that will effectually prevent all friction with the Cuban

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[1] Not printed.

authorities and all causes of annoyance; and this the Department will undertake to do.

G. v. MEYER.

File No. 811.34537/53.

The Acting Secretary of Navy to the Secretary of State.

WASHINGTON, *March 14, 1911.*

SIR: I have the honor to acknowledge the receipt of the Department of State's letter No. 811.34537/50, of the 6th instant,[1] inclosing for the information of this Department a copy of a dispatch No. 644 from the American minister at Habana, in which he reports that the question of the extension of the naval station at Guantánamo will remain in abeyance until some reply can be made in regard to the matters referred to by the Cuban secretary of state in previous correspondence on the subject.

This Department, having expressed its opinion that the naval reservation at Bahía Honda should be offered as a concession in return for the proposed extension at Guantánamo, knows of no other concession within its province to recommend, and will be pleased to receive and consider any suggestion that might expedite the negotiations.

BEEKMAN WINTHROP.

File No. 811.34537/54.

The American Minister to the Secretary of State.

No. 700.] AMERICAN LEGATION,
Habana, March 25, 1911.

SIR: I have the honor to acknowledge the receipt this morning of the Department's instruction No. 266,[1] of the 21st instant, in which it is stated that the Acting Secretary of the Navy "knows of no other concession within its province to recommend" in return for the proposed extension at Guantánamo. What I am anxious to receive is instructions which will put me in a position to reply to the note from Sr. Sanguily. As yet only one of the points referred to in that note—the jurisdiction over the entrance to the harbor—appears to have been considered. A survey has been made of the additional land desired by us at Guantánamo, in which speculators have already become interested, and the Cuban authorities will be ready to take definite action as soon as they receive the information for which the secretary asked.

I have, etc.,

JOHN B. JACKSON.

File No. 811.34537/54.

The Secretary of State to the American Minister.

No. 278.] WASHINGTON, *April 12, 1911.*

SIR: The Department acknowledges the receipt of your dispatch No. 700, of March 25, 1911.

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[1] Not printed.

In reply to that portion of Mr. Sanguily's note in which he refers to the claim for expenses incurred during the military occupation of 1906–1909, you will accordingly hand the Cuban secretary of state the following aide mémoire:

Replying to the inquiry of the Cuban Government as to the release of Cuba by the President from any liability for the expeditures made by this Government in connection with the maintenance of the military forces of the United States in Cuba during the last intervention, it should be said that inasmuch as the Congress of the United States has never directed the President to make a demand upon Cuba for reimbursement of the expenditures by the Government of the United States, and inasmuch as the Executive has never made any demand or set forth any claim against the Government of Cuba for such expenditures, it would seem wisest to refrain from agitating the question at this time and meanwhile to permit the matter to rest where it now is.

The Department hopes that with this information and that contained in the Department's instruction No. 277 [1] of this date you will be enabled to expedite the completion of the negotiations for the extension of the naval station at Guantánamo.

I am, etc.,

P. C. KNOX.

File No. 811.34537/56.

The American Minister to the Secretary of State.

No. 758.] AMERICAN LEGATION,
Habana, Cuba, April 17, 1911.

SIR: With reference to the project to enlarge our naval station at Guantánamo, I have the honor to transmit herewith a copy of a "Confidential memorandum" which I read to Sr. Sanguily, the Cuban secretary of state, this afternoon, and left with him at his request. This memorandum was compiled from several of the Department's instructions or their accompanying documents (I from No. 254,[2] II from No. 278, and III from No. 277), and was presented to Sr. Sanguily as a reply to his confidential note of February 8, of which a copy was sent in my despatch No. 623.

With regard to the progress of the negotiations, Sr. Sanguily said that the President and Government are ready to make the desired exchange of additional land at Guantánamo in return for the Bahía Honda release, and that the draft of a treaty in the premises is being prepared in consultation with the members of the senate committee on foreign relations. Some time ago a commission was sent to Guantánamo, but its report was unsatisfactory, and a new technical commission has now been named with instructions to study the limits of the proposed new concession on the spot, and to report upon the ownership and value of the land included therein and upon other pertinent matters.

I have, etc.,

JOHN B. JACKSON.

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[1] This instruction is printed under Sovereignty of Isle of Pines, p. 136.
[2] Not printed.

[Inclosure.]

The American Minister to the Cuban Secretary of State.

MEMORADUM.

I. The United States Navy Department is of the opinion that the military necessities connected with the naval base at Guantánamo are such as to render it inadvisable for the United States to surrender any of its jurisdiction over the shores and waters of the bay. Considerable work preparatory to fortification has already been done on the western shores, and it is impossible to determine at the present time what other places on the shore it may be thought necessary to fortify. The situation being so clear that although jurisdiction has been explicitly granted to the United States, the ultimate sovereignty of Cuba is nevertheless acknowledged, it is believed that it will not be difficult to issue instructions to the commandant of the naval station which will effectually prevent all friction with the Cuban authorities and all causes of annoyance; and this the Navy Department will undertake to do.

II. (See Claim for the cost of intervention in Cuba.)

III. (See Sovereignty of the Isle of Pines.)

HABANA, *April 17, 1911.*

File No. 811.34537/58.

No. 884.] AMERICAN LEGATION,
Habana, June 1, 1911.

SIR: Referring to my dispatch No. 758, I have the honor to inclose herewith a copy (with translation) of a draft of an agreement in regard to the desired exchange of additional land for our naval station at Guantánamo in return for the Bahía Honda release, which I have just received from the Cuban department of state. In this draft the lines of the agreement of February 16/23, 1903, have been followed. The proposed boundaries for the Guantánamo station are those mentioned in my note of January 21, 1911 (dispatch No. 594), which were copied from the letter of the joint board of March 25, 1907, to the Secretary of the Navy, of which a copy accompanied the Department's instruction No. 265 (to Mr. Morgan), of July 17, 1909.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

Draft of agreement enlarging the naval station at Guantánamo.

[Extract.]

The Republic of Cuba and the United States of America being desirous to modify the limits of the existing naval station at Guantánamo for reasons of military order with the object to include certain elevations of strategical importance, as well as to provide the necessary water, within the boundaries of the naval station, in exchange for the renunciation by the United States of America of the lease of land in Bahía Honda effected by the agreements of February 16/23 and July 3,[1] 1903, in execution of the provisions of Article VII of the appendix to the constitution of the Republic of Cuba, and the transfer by the United States of America to the Republic of Cuba, wholly and definitely, of all its rights therein, have named with this object their plenipotentiaries:

The President of the Republic of Cuba; Sr. Manuel Sanguily y Garritt, secretary of state; and

The President of the United States of America, Mr. John B. Jackson, envoy extraordinary and minister plenipotentiary in Habana, who after communicating to each other their respective full powers, found to be in due form, have agreed upon the following articles:

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[1] Should be July 2.

ARTICLE I. The limits of the areas of land and water in Guantánamo which were leased to the United States of America under the agreements of February 16/23 and July 3, 1903, are hereby increased and definitely fixed in the form described as follows. [Description by metes and bounds.]

ARTICLE II. All the rights acquired and all the obligations contracted by the Republic of Cuba and the United States of America in regard to the lands leased at Guantánamo by virtue of the above-mentioned lease are hereby extended to the new leased lands applying to the same for their delimitation, evaluation, and expropriation the proceedings adopted in paragraph 2 of Article I and in Article II of the agreement of July 3, 1903, in case of the lands previously leased.

ARTICLE III. All the clauses and provisions of the treaty of February 16/23, 1903, and the regulating convention of the 2d of July, 1903, that are not altered or modified by the present convention shall remain subsistent.

ARTICLE IV. The United States of America agrees and covenants to pay to the Republic of Cuba the [annual] sum of ——— as long as the former shall occupy and use said areas of land by virtue of said agreement.

ARTICLE V. The United States of America renounces all right over the areas of land and water at Bahía Honda which the Government of the Republic of Cuba leased to the United States of America by the agreements of February 16/23, and July 3, 1903.

ARTICLE VI. This lease shall be ratified and the ratifications shall be exchanged in the city of ——— within —— months from this date.

In witness whereof, we, the respective plenipotentiaries, have signed this lease and hereunder affixed our seals.

File No. 811.34537/60.

The Acting Secretary of Navy to the Secretary of State.

JUNE 21, 1911.

SIR: I have the honor to acknowledge the receipt of your letter of June 9, 1911, inclosing copy of the translation of the draft of an agreement between the United States and Cuba, providing for the desired exchange of additional land for our naval station at Guantánamo in return for the release by the United States of the Bahía Honda naval reservation, and asking for an expression of opinion.

This agreement has been referred to the general board of the Navy, which reports as follows:

The boundaries described in the inclosed draft of agreement are in accordance with the recommendations of the joint board, as expressed in its letter of March 25, 1907,[1] except that in paragraph 6 the figures are "0.21 nautical mile" instead of "0.17 nautical mile."

2. The general board recommends the ratification of the agreement and approval of the boundaries prescribed, subject to such verification of the surveys as may be necessary to avoid error.

This report of the general board is approved, and the ratification of the agreement in its present general form is recommended by this Department.

BEEKMAN WINTHROP.

File No. 811.34537/61.

The Secretary of State to the American Minister.

No. 355.] WASHINGTON, *July 6, 1911.*

SIR: The Department is in receipt of your dispatch No. 930,[2] of the 15th ultimo, in which you report that the question of the extension

[1] See reference to this letter above, introductory note.
[2] Not printed.

of the Guantánamo naval station in return for the Bahía Honda release, has been taken up by the Cuban secretary of state with certain influential members of the Cuban Senate, and that he has advised you that the general sentiment is in favor of granting what is desired by the United States.

In accordance with the wishes of the Navy Department, you will at once proceed to conclude with the Government of Cuba the lease agreement for the extension of the Guantánamo naval station. As soon as the Department is advised of the readiness of the Government of Cuba to sign the agreement, full powers will be sent you.

I am, etc.,

P. C. KNOX.

File No. 811.34537/62.

The American Minister to the Secretary of State.

No. 992.] AMERICAN LEGATION,
Habana, Cuba, July 11, 1911.

SIR: I have the honor to acknowledge the receipt this morning of your instruction No. 355, of the 6th instant, directing me to proceed at once to conclude with the Government of Cuba the lease agreement for the extension of the Guantánamo naval station; and to request that the requisite "full powers" may be sent me as soon as practicable in order that there may be no unnecessary delay when the moment for signing the lease arrives. And I have also to request that you will instruct me as to your willingness to add to this Article III a paragraph similar to, or (preferably) the same as paragraph 3, Article I, of the original lease of July 2, 1903. This paragraph was omitted inadvertently, as I have since learned, by the Cuban department of state, in preparing the draft of the new lease for submission to the American Government.

I have, etc.,

JOHN B. JACKSON.

File No. 811.34537/69.

No. 1156.] AMERICAN LEGATION,
Habana, October 27, 1911.

SIR: Referring to previous correspondence in regard to the extension of our naval station at Guantánamo, I have the honor to report that I was told by the Cuban secretary of state this morning that the survey has now been finished and that engineer may be expected to make his final report, through the department of public works, within a few days. Everything appears to be satisfactory.

I have, etc.,

JOHN B. JACKSON.

File No. 811.34537/70.

The Secretary of State to the American Chargé d'Affaires.

No. 411.] WASHINGTON, *November 24, 1911.*

SIR: Referring to your legation's No. 884 of June 1, 1911, and previous correspondence relating to the matter of the extension of

the boundary lines of the United States naval station at Guantánamo, I inclose a copy of a letter from the Secretary of the Navy.

When you have ascertained that the Government of Cuba accepts the modifications of the draft agreement as now proposed by the Secretary of the Navy, you will so advise the Department by telegraph. The President's full powers will then be forwarded.

I am, etc.,

P. C. KNOX.

[Inclosure.]

The Secretary of the Navy to the Secretary of State.

WASHINGTON, *November 13, 1911.*

SIR: Referring to previous correspondence relative to the matter of the extension of the boundary lines of the United States naval station at Guantánamo, and particularly to the proposed draft of agreement with the Republic of Cuba, forwarded by the United States minister at Habana with his dispatch No. 884 of June 1, 1911, I have the honor to request that the exclusion, from the enlarged territory, of the railroad near the original northern boundary of the station be provided for by altering said proposed draft of agreement in the following particulars, viz [description by metes and bounds]:

For convenient reference there is inclosed herewith a drawing showing approximately the location of the lines described above and of the railroad it is intended to exclude from the station limits.

G. v. MEYER.

File No. 811.34537/72.

The American Chargé d'Affaires to the Secretary of State.

No. 1234.] AMERICAN LEGATION,
Habana, December 4, 1911.

SIR: I have the honor to acknowledge the receipt to-day of the Department's instruction No. 411 of the 24th ultimo.

I have to-day presented to the Cuban department of state a note embodying the suggestions of the Secretary of the Navy. Mr. Patterson, the subsecretary of state, who received me in the absence of Mr. Sanguily, assured me that the matter would be given immediate attention and that an answer would be given as soon as possible.

I have, etc.,

HUGH S. GIBSON.

File No. 811.34537/74.

The American Minister to the Secretary of State.

No. 2.] AMERICAN LEGATION,
Habana, December 19, 1911.

SIR: Referring to Mr. Gibson's No. 1234 of the 4th instant, in which he reports that the Cuban Government is considering the modifications proposed by the Navy Department in the agreement between the United States and Cuba regarding the extension of the boundary lines of the United States naval station at Guantánamo, I have the honor to report that Mr. Sanguily, the Cuban secretary of state, in the course of a call made upon me yesterday afternoon, stated that it was his belief and that of President Gómez that the

Government of the United States alone was in a position to judge as to the proper limits for the naval station, and that he saw no objection which could fairly be made to the limits indicated by the Navy Department.

He added that the Senate would to-day adjourn until the 8th of January, and that by that time the President expected to be able to lay the whole matter before the Senate with greater hope of success than if the matter had been presented without this careful preparation.

I have, etc.,

A. M. BEAUPRÉ.

PROPOSAL OF FRANCE, GERMANY, AND GREAT BRITAIN TO ARBITRATE WITH CUBA CERTAIN INSURRECTIONARY CLAIMS ARISING PRIOR TO 1898.

File No. 437.00.

AMERICAN LEGATION,
Habana, January 5, 1911.

No. 546.]

SIR: Referring to my dispatch No. 484,[1] of November 26 last, I have the honor to call attention to the fact that Sr. Sanguily, the Cuban secretary of state, understood that instructions would be sent me as a result of his conversation with President Taft at Guantánamo,[2] in regard to certain claims which are being pressed against Cuba by England, France, and Germany. As to the exact nature of these claims or their amount, I know very little. All of them arose from the action of the Cuban revolutionary forces *prior to 1898*, and are due to damage done by those forces to the property of British, French, or German subjects, or in connection with the furnishing of supplies. The Cuban Government is apprehensive that any recognition of its liability in the premises may lead to the presentation of similar claims by other nations (especially Spain), and Sr. Sanguily is anxious to learn if we consider that any liability exists. Recently joint representations were made at the foreign office by my British, French, and German colleagues in this matter, and the Secretary feels that he soon must make a reply of some kind. I have been requested to ask you for telegraphic instructions as to your views of the case.

I have, etc.,

JOHN B. JACKSON.

File No. 437.00/7.

The Secretary of State to the American Minister.

[Telegram.]

WASHINGTON, *June 8, 1911.*

Your dispatch of January 5, 1911, No. 546, and subsequent correspondence. The Government of the United States deems it inexpedient to make any expression upon the precise inquiry of the Government of Cuba as to the Cuban liability, but, actuated equally by its usual solicitude for the best interests of Cuba and in consonance with the dictates of justice, the Department has given the representa-

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[1] Not printed.

[2] Nov. 22, 1910.

tives at Washington of France, Germany, and Great Britain, in answer to their definite questions, the following aide mémoire, the substance of which will govern the advice you give in response to the questions of the minister for foreign affairs:

AIDE MÉMOIRE FOR REPRESENTATIVES OF FRANCE, GERMANY, AND GREAT BRITAIN.

In the matter of the inquiries made as to the attitude of the United States toward a proposition of France, Germany, and Great Britain to arbitrate with Cuba certain claims arising during the insurrection in Cuba, the feeling of the Government of the United States would be to deprecate any undue pressure of "insurrectionary claims" arising prior to 1898, upon the Cuban Government, especially at a time when that Government is confronted with the problem of firmly establishing its economic welfare. The Government of the United States would be compelled, however, to agree in principle to the appropriateness of determining by arbitration the questions involved.

KNOX.

File No. 437.00/9.

The American Minister to the Secretary of State.

[Telegram.]

HABANA, *June 16, 1911.*

Your telegram of June 8 received. President Gómez requests me to ascertain as soon as practicable whether or not President Taft will act as arbitrator.

JACKSON.

File No. 437.00/10.

No. 931.] AMERICAN LEGATION,
Habana, Cuba, June 16, 1911.

SIR: Referring to my dispatch No. 916,[1] of the 9th instant, I have the honor to confirm the telegram sent you this morning in regard to the so-called "insurrectionary claims" arising prior to 1898. As was of course anticipated, the European representatives in Washington have supplied their colleagues here with information as to the nature of the aide mémoire on this subject which was given them by the Department, and at least one of the representatives in Habana (the German minister) has suggested "arbitration." Yesterday Sr. Sanguily, the Cuban secretary of state, told me that he had discussed the matter with President Gómez, and that the President had told him to find out through me if President Taft would consent to act as arbitrator. The Secretary told me in strict confidence that Cuba would not be inclined to submit this matter to The Hague Court, owing to the natural bias which its members would have in favor of European countries, and the different manner in which questions of the kind are regarded in Europe and in America (in the continental sense), as was shown in the consideration of the "Drago Doctrine" at the Second Hague Conference.

I have, etc.,

JOHN B. JACKSON.

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[1] Not printed.

File No. 437.00/11.

[Extract.]

No. 965.] AMERICAN LEGATION,
Habana, July 1, 1911.

SIR: Referring to my dispatch No. 931, of the 16th ultimo, and to my telegram of the same date, I have the honor to report that * * * the Governments of France, Germany, and Great Britain have now formally proposed that this question be submitted to arbitration, and have requested the Cuban Government to suggest a tribunal or person before whom the case can be heard.

I have, etc.,

JOHN B. JACKSON.

File No. 437.00/14.

N. 991.] HABANA, CUBA, *July 11, 1911.*

SIR: Referring to my despatch No. 965, of the 1st instant, I have the honor to report that I have learned from President Gómez that the Cuban minister in Washington had informed him, under date of the 6th instant, that President Taft would not decline to act as arbitrator of the so-called "insurrectionary claims," in case he should be invited to do so. I have also learned that it was not until after the 1st instant that the representatives of France, Germany, and Great Britain (who had received instructions by cable on June 30) made their proposition in regard to submitting the question to arbitration, and that their Governments are not yet in full accord as to the manner in which such arbitration should take place, as concerns details. Without waiting for further discussion, however, the Cuban Government proposed, under yesterday's date, that the questions at issue be submitted to President Taft, and this suggestion will now be referred to the several European Governments concerned.

I have, etc.,

JOHN B. JACKSON.

File No. 437.00/13.

The President of Cuba to the President of the United States.

[Translation—Extract.]

HABANA, *July 6, 1911.*

MY ILLUSTRIOUS FRIEND: Although I had the honor to offer through Mr. Martín Rivero, the minister of Cuba at Washington, my greetings on the occasion of your silver wedding, I now take great pleasure in renewing to you and Mrs. Taft my heartiest congratulations and most earnest wishes—which also express those of the people of Cuba—for the uninterrupted happiness of your home and the prosperity of the American Nation * * *.

[Here follow observations on general political and economic conditions.]

But the main object of this letter is to thank you most sincerely for the kindness with which you have consented to yield to our desire

that you accept the office of arbitrator in the adjudication of the claims preferred against Cuba by certain European Governments. I have received this very day a telegram filed in Washngton by Mr. Rivero in which he informs me that you would not decline it if the claiming nations should also jointly refer the case to your arbitration.

I shall endeavor to obtain their assent which I dare say will not be very difficult, as I believe, and make bold to say to you, that both they and Cuba will find in you a solid guaranty of equity and wisdom.

And I take the greatest pleasure, my dear Mr. President, in availing myself, etc.,

JOSÉ M. GÓMEZ.

File No. 437.00/13.

The President of the United States to the President of Cuba.

Washington, August 2, 1911.

MY DEAR MR. PRESIDENT:

I have read with much interest and pleasure your kind letter of July 6, wherein you so cordially offer me your felicitations upon the twenty-fifth anniversary of my wedding, and refer to the general political condition and the marked prosperity in the Cuban Republic. It is indeed gratifying for me to learn of the prosperous conditions that prevail in this neighboring Republic in whose foundation the United States was so vitally interested.

[Response to omitted portion of letter from President Gómez.]

I now refer to that portion of your letter wherein you thank me for having consented to act as arbitrator in the adjudication of the claims of certain European Governments against Cuba which have arisen out of damages and injuries caused their nationals in the wars for Cuban independence. It is with deep regret, my dear Mr. President, that I am obliged to inform you that when I indicated to Minister Rivero my willingness to undertake this task, should the claimant nations join in a request to that end, I was not wholly aware of circumstances which seem to render my undertaking of such a duty impossible. I refer to the fact that claims exactly similar to those of European Governments exist in favor of American citizens and, therefore, it would not be possible for this Government to join with the Governments of the other claimant nations in a request for its own chief executive to undertake to sit in judgment of claims of American citizens.

Thanking you most cordially for your kind wishes, which I most sincerely reciprocate,

I am, etc.,

WILLIAM H. TAFT.

File No. 437.00/16.

The American Minister to the Secretary of State.

[Extract.]

No. 1054.] HABANA, CUBA, *August 10, 1911.*

SIR: * * * Yesterday the representatives of the three powers presented a collective note to Sr. Sanguily informing him that their

Governments had taken note of Cuba's willingness to submit the matter to arbitration, and would soon make a proposition as to the character of the arbitration "commission" and the questions which should be considered by it. This note was accompanied by a "verbal" communication stating that the principle involved was of such importance that it should be submitted for arbitration to a commission in which the interested powers were represented, and should not be determined by any single arbitrator, without regard to the position or character of that single person.

The claims themselves are of small importance to the three powers, amounting in all to about $4,000,000 (which amount would, of course, be subject to considerable reduction), arising principally from damage to the property of their nationals, only a relatively small proportion being on account of supplies furnished to the insurrectionary forces (my dispatch No. 546, of Jan. 5, 1911); but the powers consider the principle involved as of great importance, and they wish to have it considered by a tribunal of a character sufficient to make its decision an international precedent. Cuba, on the contrary, is not interested in the principle, but in the consequences of any decision contrary to her views (dispatch No. 546), and is therefore unwilling to submit her case to any tribunal in which European might prevail over American views.

I am, etc.,

JOHN B. JACKSON.

File No. 437.00/14.

The Secretary of State to the American Minister.

No. 380.] WASHINGTON, *August 10, 1911.*

SIR: The Department acknowledges the receipt of your No. 991, of July 11, in which you state, etc.

In reply you are informed that the President indicated his willingness to Minister Rivero to act as arbitrator in this matter, provided the claimant nations should join in requesting him to accept such a responsibility. Since, however, there are claims of American citizens of exactly the same nature, it will not be possible for this Government to take part in a joint request such as the President contemplated, and he has, therefore, declined to act as arbitrator in this matter. The President has so informed President Gómez in a personal note.

When you have occasion to communicate with the minister for foreign affairs in regard to this matter you may informally intimate to him that perhaps the best way to adjudicate these claims would be for the Government of Cuba to organize a national commission for that purpose, to be composed of one Cuban, one foreigner of the same nationality as the alien whose claim is to be heard, and a third member who should act as president of the tribunal, and who might be an American citizen. Such a plan would seem to insure the protection of the alien claimants, and at the same time to establish a means of adjudication more in consonance with the desires of the Republic of Cuba since it would be the establishment, not of an international claims commission, but of a domestic commission.

I am, etc.,

P. C. KNOX.

File No. 437.00/19.

The American Minister to the Secretary of State.

[Extract.]

No. 1072. HABANA, CUBA, *August 16, 1911.*

SIR: I have the honor to acknowledge the receipt yesterday of you instruction No. 380, of the 10th instant, in regard to the so-called "insurrectionary claims," which crossed my dispatch No. 1054 of the same date.

On calling on Sr. Sanguily, the Cuban secretary of state, this morning, I found that he had already seen President Taft's letter to President Gómez, of August 3, and * * * had learned for the first time of the existence of claims of American citizens of the same nature as those of Europeans. * * *

During our conversation I mentioned your suggestion as to the establishment of a domestic claims commission, but I saw at once that he did not view it with favor. He was much disturbed at President Taft's decision not to act as arbitrator, and maintained that under the circumstances Cuba was in no way bound to submit the matter to arbitration at all, although he would await the proposals of the powers before giving a positive refusal. His position is that by the treaty of Paris and her own constitution certain obligations were imposed on Cuba, which obligations have been fulfilled, and that if the door was opened to the consideration of the claims in question there would be a revival of the Spanish debt claims and others which would overwhelm Cuba if she should be compelled to recognize them. He maintains that Cuba has no liability in the matter at all, and that it would amount to giving away her whole case if she should consent to the formation of any commission to consider the claims as such. To him the only point which could be submitted to arbitration would be the justice of the claims as a whole. * * *

I have, etc.,

JOHN B. JACKSON.

File No. 437.00/20.

The American Chargé d'Affaires to the Secretary of State.

No. 1182.] HABANA, *November 9, 1911.*

SIR: Referring to previous correspondence in regard to the so-called "insurrectionary claims" against Cuba, I have the honor to report that day before yesterday the representatives of Great Britain, France, and Germany presented a joint note to the secretary of state requesting him to formulate any proposals the Cuban Government might be inclined to make concerning the character of the arbitral commission or tribunal to which Cuba would be willing to submit the question of the claims and as to the nature of the claims themselves.

The question of a reply is now being considered by the department of state.

I have, etc.,

HUGH S. GIBSON.

File No. 437.00/22.

[Extract.]

No. 1244.] HABANA, CUBA, *December 12, 1911.*

SIR: Referring to previous correspondence in regard to the so-called Cuban "revolutionary claims" of France, Germany, and Great Britain, I have the honor to report that I am informed that it is the intention of President Gómez to appoint a commission composed of the chiefs of the political parties and the presiding officers of both houses of Congress to study the question and to make recommendations as to the course to be pursued by the Government. * * *

Mr. Sanguily has promised to keep me fully informed as to any definite steps in the matter of these claims.

I have, etc.,

HUGH S. GIBSON.

CLAIM FOR THE COST OF INTERVENTION IN CUBA, 1906 TO 1909, OTHERWISE CALLED THE MILITARY CLAIM.

File No. 811.34537/42.

The American Minister to the Secretary of State.

[Extract.]

No. 567.] AMERICAN LEGATION,
Habana, January 14, 1911.

SIR: I have the honor to acknowledge the receipt this morning of your instruction No. 212,[1] etc., and I have accordingly just has a conversation with Sr. Sanguily, the Cuban secretary of state, in regard to it. * * *[1] During the conversation Sr. Sanguily referred to a statement said by the papers to have been made by Mr. Dickinson, our Secretary of War, some time ago, to the effect that the United States had claims outstanding against Cuba for the maintenance of military forces during the intervention of 1906–1909, which, he said, had caused a good deal of uneasiness. He said that he could not see how Cuba had any responsibility in regard to this, as the forces were sent by the United States because we thought them necessary, and that we had ourselves kept them here without any agreement with Cuba as to the length of their stay and had withdrawn them when we saw fit to do so. He said that some statement in regard to the nonexistence of any such claim would be very welcome and would facilitate negotiations. The Cuban public, he said, is suspicious with regard to any and every transaction, and that this suspicion could be disarmed if it should be shown that Cuba was to receive real benefits.

I have the honor to recommend the foregoing to your serious and early consideration and to request to be furnished with explicit instructions as to what we want and the conditions we are prepared to make, as soon as possible.

I have, etc.,

JOHN B. JACKSON.

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[1] Printed under Naval Station at Guantánamo, p. 114.

File No. 437.11UN3.

The Secretary of War to the Secretary of State.

WAR DEPARTMENT,
Washington, January 25, 1911.

SIR: I have the honor to acknowledge the receipt of your letter of January 21[1] inclosing a copy of dispatch No. 567, dated January 14, 1911, from the American minister at Habana.

You invite my attention to that portion of the dispatch which refers to a statement made in the newspapers and attributed to me to the effect that the United States had claims outstanding against Cuba for the maintenance of our military forces during the intervention in that island from 1906 to 1909.

The statement to which the newspapers refer is doubtless the one which I made before the Committee on Military Affairs of the House of Representatives in a hearing on the Army appropriation bill, December 13, 1909. I beg to inclose a copy[1] of so much of the hearing as pertains to this matter.

You will observe that this was a statement of my own views, and not made in such a way as to commit the administration to definite action in this regard.

J. M. DICKINSON.

File No. 811.34537/48.

The Acting Secretary of State to the American Minister.

DEPARTMENT OF STATE,
Washington, February 11, 1911.

SIR: The Department acknowledges the receipt of your dispatches No. 567 of January 14, 1911; No. 594 of January 24, 1911[1]; and No. 605 of January 30, 1911,[1] all with regard to the proposed enlargement of the United States naval station at Guantánamo, Cuba. In all of these despatches, however, you emphasize the fact that the Cuban Government is very anxious to know whether or not the Government of the United States is, as has been rumored, entertaining a claim against Cuba arising from the presence of our military forces during the second intervention, 1906–1909.

In reply, you are informed that copies of pertinent correspondence relative to the latter subject have been sent to the President, with the statement that this is a question of much importance, involving a matter of great concern to the Secretary of War, and that it is therefore presumed that the President will desire to deal with it personally. Upon receipt of the President's reply you will be promptly communicated with.

I am, etc.,

HUNTINGTON WILSON.

[1] Not printed.

File No. 811.34537/49.

The American Minister to the Secretary of State.

[Extract.]

No. 623.] AMERICAN LEGATION,
Habana, February 11, 1911.

SIR: Referring to previous correspondence in regard to the enlargement of our naval station at Guantánamo, I have the honor to transmit herewith a copy and translation of a confidential note dated the 8th instant which I received from Sr. Sanguily, the Cuban secretary of state, last night.

I have [etc.],

JOHN B. JACKSON.

[Inclosure.]

The Cuban Secretary of State to the American Minister.

[Translation—Extract.]

No. 13.] DEPARTMENT OF STATE,
Habana, February 8, 1911.

Mr. MINISTER:[1] * * * Some time ago the press of the United States attributed to the minister of war of that Republic, Mr. Dickinson, the statement that the costs of the second intervention, represented to amount to $6,000,000, constitute a debt of Cuba. This statement, probably apocryphal, has occasioned appreciable uneasiness here, being considered as the announcement of a pecuniary claim which the Cuban treasury could not meet without serious disturbance of its equilibrium. In spite of its apparent incorrectness, not having been denied by the Government of the United States this statement continues to be a source of uneasiness, and it seems but right to the Cuban Government that it should be disclaimed by an authentic pronouncement, especially since, really and positively, an obligation of that nature could not be conceived of as legitimately binding on the Cuban people when that people had not been consulted and so made responsible for it * * *.

MANUEL SANGUILY.

File No. 811.34537/56.

The American Minister to the Secretary of State.

No. 758.] AMERICAN LEGATION,
Habana, Cuba, April 17, 1911.

SIR: With reference to the project to enlarge our naval station at Guantánamo, I have the honor to transmit herewith a copy of a "Confidential Memorandum," which I read to Sr. Sanguily, the Cuban secretary of state, this afternoon, and left with him at his request. This memorandum was compiled from several of the department's instructions or their accompanying documents (I from No. 254, II from No. 278,[2] and III from No. 277), and was presented to Sr. Sanguily as a reply to his confidential note of February 8, of which a copy was sent in my dispatch No. 623 * * *.[3]

I have, etc.,

JOHN B. JACKSON.

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[1] The omissions appear under Naval Station at Guantánamo, and Sovereignty of the Isle of Pines, pp. 118 and 136.
[2] Printed under Naval Station at Guantánamo, p. 120.
[3] The omission appears under Naval Station at Guantánamo, p. 121.

[Inclosure.]

The American Minister to the Cuban Secretary of State.

[Memorandum.]

I. [See Naval Station at Guantánamo.]

II. As to the release of Cuba by the President of the United States from any liability for the expenditures made by the American Government in connection with its maintenance of military forces in Cuba during the last intervention, it should be said that inasmuch as the Congress of the United States has never directed the President to make a demand upon Cuba for reimbursement of the expenditures by the Government of the United States, and inasmuch as the Executive has never made any demand or set forth any claim against the Government of Cuba for such expenditures, it would seem wisest to refrain from agitating the question at this time and meanwhile to permit the matter to rest where it now is.

III. [See Isle of Pines.]

HABANA, *April 17, 1911.*

File 437.11UN3/9.

The American Minister to the Secretary of State.

[Extract.]

No. 759.] AMERICAN LEGATION,
Habana, April 17, 1911.

SIR: I have the honor to acknowledge the receipt on the 15th instant of your instruction No. 278 of April 12,[1] and to report my compliance therewith, as shown in the copy of the memorandum handed Sr. Sanguily, the Cuban secretary of state, which is inclosed in my dispatch 758 of to-day's date. On receiving my memorandum Sr. Sanguily spoke of the claim for expenses incident to the military occupation of 1906 to 1909 as a kind of "sword of Damocles," while he realized the advisability of permitting the matter to rest for the present where it now is * * *.

I have [etc.],

JOHN B. JACKSON.

SOVEREIGNTY OF THE ISLE OF PINES.[2]

Article VI of Treaty of Future Relations.[3]

ARTICLE VI. The Island of Pines shall be omitted from the boundaries of Cuba specified in the Constitution, the title thereto being left to future adjustment by treaty.

File No. 811.34537/49.

The American Minister to the Secretary of State.

No. 623.] AMERICAN LEGATION,
Habana, February 11, 1911.

SIR: Referring to previous correspondence in regard to the enlargement of our naval station at Guantánamo, I have the honor to

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[1] Printed under Naval Station at Guantánamo, p. 120.
[2] Foreign Relations, 1910, p. 415; Malloy's Treaties, 364.
[3] Foreign Relations, 1904, p. 245: Malloy's Treaties, 362.

transmit herewith a copy and translation of a confidential note dated the 8th instant which I received from Sr. Sanguily, the Cuban secretary of state, last night * * *.[1]

The Secretary in this note refers to the treaty of 1904 in regard to the Isle of Pines for the first time * * *.

I have [etc.],

JOHN B. JACKSON.

[Inclosure.]

The Cuban Secretary of State to the American Minister.

[Extract.—Translation.]

No. 13.] DEPARTMENT OF STATE,
Habana, February 8, 1911.

Mr. MINISTER: In reference to the conversation which we had when your excellency brought me your note in regard to the new limits to be given to the Guantánamo naval station[2] it is a real pleasure to me to advise your excellency * * * [concerning the Guantánamo naval station and the Intervention claims, which see for the text omitted.]

The present occasion also seems to me a most propitious one in which, once for all, by means of a resolution of the Federal Congress, to define the sovereignty of the Isle of Pines, the uncertainty of the nationality of which, because not conforming to the provisions of the Platt amendment and the treaty of 1904, is a continual source of annoying difficulties to both Governments and of constant friction between the North American subjects who have settled there and Cuban authorities in that territory * * *. [The omission concerns the possibility of a third intervention, also the area of Bahía Honda, and is printed under Naval Station at Guantánamo.]

I avail, etc.,

MANUEL SANGUILY.

File No. 811.34537/54.

The Secretary of State to the American Minister.

No. 277.] DEPARTMENT OF STATE,
Washington, April 12, 1911.

SIR: Referring to the Department's instruction No. 278,[1] of this date, which acknowledges the receipt of your dispatch No. 700 of March 25, 1911,[3] you are informed that the attitude of this Government with regard to the final settlement of the sovereignty over the Isle of Pines has been made clear in the treaty signed at Washington on March 2, 1904, which has been submitted to the Senate for its approval but on which no action has as yet been taken. The Department therefore considers that the wisest course is to allow the matter to remain where it at present rests, and you will so inform the Cuban secretary of state.

I am, etc.,

P. C. KNOX.

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[1] The omissions appear under Naval Station at Guantánamo and Claim for the cost of intervention in Cuba, pp. 118 and 134.
[2] See dispatch 567 under Naval Station at Guantánamo, p. 115.
[3] Printed under Naval Station at Guantánamo, p. 120.

File No. 811.34537/56.

The American Minister to the Secretary of State.

No. 758.] AMERICAN LEGATION,
Habana, April 17, 1911.

SIR: With reference to the project to enlarge our naval station at Guantánamo, I have the honor to transmit herewith a copy of a confidential memorandum which I read to Sr. Sanguily, the Cuban secretary of state, this afternoon[1].

I have [etc.],

JOHN B. JACKSON.

[Inclosure.]

The American Minister to the Cuban Secretary of State.

[Memorandum.]

I. See Naval station at Guantánamo.

II. See Claim for the cost of intervention in Cuba.

III. The attitude of the American Government with regard to the final settlement of the sovereignty over the Isle of Pines has been made clear in the treaty signed at Washington on March 2, 1904, which was submitted to the Senate for its approval, but on which no action has as yet been taken. It is believed that any effort to procure favorable action of the United States Senate upon this treaty at this time would inevitably result in much adverse criticism and probably in the loss of the treaty. The American State Department consequently considers that the wisest course is to allow the matter to remain where it is at present.

HABANA, *April 17, 1911.*

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[1] For remainder of this dispatch see Naval Station at Guantánamo, p. 121.

DOMINICAN REPUBLIC.

EXTRACT FROM THE MESSAGE OF THE PRESIDENT, DON RAMÓN CÁCERES, CONCERNING RELATIONS BETWEEN THE DOMINICAN REPUBLIC, HAITI, AND THE UNITED STATES.

File No. 839.032/1.

[Translation.]

GENTLEMEN OF THE CONGRESS: Our relations with friendly nations have been maintained on a plane of equality and corresponding reciprocity, with nothing to regret in that sense except the difficulty with the Republic of Haiti in December of last year, and the hasty demand made on us by the Government of Italy in regard to the acquisition by the Government of the Santo Domingo dock and wharf concession.

The question with Haiti arose about a road which we ordered to be opened from the mouth of the Pedernales River to the southern bank of the Lake of Fondo, for the purpose of facilitating the transit of the frontier guard in their duty for the prevention of contraband trade on the southern frontier.

When these works had advanced somewhat along the eastern side of the river and near a place called Cabeza de Agua, the Haitian Government protested against the opening of the road and sent troops along the western bank of the Pedernales River to prevent the continuance of the work, alleging that said road was a boundary line which the Dominican Government was making in violation of the territorial rights of the neighboring Republic.

In the face of this threatening attitude of the Government of Haiti, which had even placed guards on our side, the Executive Power decided to dispatch an army corps well provisioned and equipped to the Pedernales frontier in order to be ready for any possible aggression which might impair our sovereignty, until the situation could be cleared up and there could be a definite statement of the right of the Dominican Government to do whatever it pleased on its own soil.

There was no necessity for a rupture, nor was it logical to expect it, since the common interests of both countries demand harmonious and reciprocal relations, and as probably neither the one nor the other would derive from a frontier war any advantage sufficient to compensate for the damages which would result from such a rupture.

At the proposal of Haiti there was named by both Governments a mixed commission to go to the place in question and investigate on the ground whether the Dominican forces sent to Pedernales had really encroached on Haitian territory, and if the road in question was within Dominican jurisdiction; but said commission had to ter-

minate its conferences, scarcely begun, on account of a substantial difference that had arisen between the two commissions as to the scope of the functions that had been given by the respective Governments.

At this point the Government of Haiti asked us to withdraw the forces which we had at Pedernales and to submit to arbitration the general question of our frontier boundaries. For this purpose, and at the request of the Haitian Government, the Government of the United States of North America hastened to proffer its good offices "in its earnest desire that peace should be preserved and a settlement both just and honorable of the present dispute between the two Republics should be reached."

In the face of this disagreeable incident it seems to me that we should no longer delay a formal and definite settlement of our frontier question with the neighboring Republic of Haiti; and I think the moment is propitious for working to secure once and for all that peace so necessary for the two nations that share the dominion of the island, and whose differences might give rise to very grave conflicts and international complications, which we must foresee and avoid, working for a lofty national interest which we should not disregard nor view with criminal indifference. Our forefathers made the country, employing all their energies and making all the sacrifices which those times and conditions permitted them. We must now try to preserve that work, undertaken with such efforts and sacrifices, and carry it on to a successful end, decorously and triumphantly.

[The remainder of the message pertains to matters irrelevant to this volume.]

TARIFF MODIFICATIONS UNDER THE TREATY OF 1907 BETWEEN THE DOMINICAN REPUBLIC AND THE UNITED STATES.

File No. 3710/13.

The Minister of the Dominican Republic to the Secretary of State.

[Translation.]

DOMINICAN LEGATION,
Washington, January 4, 1910.

EXCELLENCY: I have the honor to forward herewith to your excellency a copy of the tariff just voted by the Dominican Congress modifying that now in existence and which the Government of the Republic wishes to submit to the President of the United States in compliance with the provisions of article 3 of the Dominico-American Convention of May 3, 1907,[1] which requires as an indispensable condition for the modification of the import duties of the Republic an agreement between the Dominican Government and the United States by which the former shall demonstrate and the President of the United States recognize that on the basis of the importations during the two years preceding that in which it is desired to make the modification of the said duties, and on the computation of the

[1] See Foreign Relations, 1907, p. 309; Malloy's Treaties I, 420. The treaty was concluded Feb. 8, 1907; ratifications exchanged July 8, 1907; proclaimed July 25, 1907.

amount and class of the imported and exported articles in each of these two years at the rate of the import duties it is proposed to establish, the total net customs receipts would in each of the two years have been in excess of the sum of $2,000,000 American gold.

The customs receipts have greatly increased in the last two years and largely exceeded the $2,000,000 set by the convention as the minimum which the customs receipts must aggregate before any change can be made in the existing duties, and evidence of this is found in the data compiled by the general receiver of customs.

It has also been proved that the modification in the new law will not cause a decrease in the amount of duties even though the Government's expectation that the importation of a considerable number of articles which were subject to prohibitory duties and now are moderately taxed should be disappointed. The new tariff, as aptly stated by Gen. Edward's last year's report of the Bureau of Insular Affairs, "has been carefully prepared with a view to remove many of the oppressive features of the present law, while at the same time it insures the income required to meet the requirements of the convention and the needs of the Dominican Government."

Be pleased, etc.,

EMILIO C. JOUBERT.

File No. 3710/13.

The Secretary of State to the Minister of the Dominican Republic.

No. 11.] DEPARTMENT OF STATE,
Washington, April 2, 1910.

SIR: Referring to your note of January 4, 1910, wherewith you transmit a copy of the tariff which the Dominican Congress voted in modification of the former tariff of the Republic, and in which you state that your Government wishes to submit it to the President of the United States in compliance with the provision of article 3 of the American-Dominican Convention of February 7,[1] 1907, I have the honor to inform you that the Dominican Executive has demonstrated and the President of the United States recognizes that on the basis of exportations and importations to the like amount and the like character, during the two years preceding January 1, 1910, the total net customs receipts would, at rates of duties as altered by the proposed new tariff, have been for each of such two years in excess of the sum of $2,000,000 gold.

The Department, therefore, further informs you that the Government of the United States agrees to the proposed modification of the import duties of the Dominican Republic, which modification was put into effect on January 1, 1910, with the understanding that the Government of the United States did not waive its right to subsequently disapprove the tariff if it did not conform to the terms of the convention of February 7,[1] 1907.

Accept, etc.,

P. C. KNOX.

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[1] Should be 8.

File No. 639.003/26.

The Secretary of State to the American Minister.

[Extract.]

No. 29.] DEPARTMENT OF STATE,
Washington, March 1, 1911.

SIR: On August 16, 1910, there appeared published in the Gaceta Oficial of the Dominican Republic a law providing for the imposition of a stamp tax on foreign and domestic letters of exchange, on foreign lottery tickets which might be brought into the Republic, and on certain articles of import as designated in a schedule appearing in article 3 thereof.

On August 6, 1910, there appeared in the Gaceta Oficial a resolution of the Dominican Congress approving and putting into operation a municipal surtax upon articles of import levied by the commune of Santo Domingo.

Both these laws were passed without consultation with the United States, and the consent of this Government was never given to either.

The law creating the stamp tax applies to articles of importation and to that extent is tariff legislation. The municipal surtax is directed solely to articles of importation and is in its entirety tariff legislation.

The convention between the United States and the Dominican Republic of February 8, 1907, provides that the import duties of the Dominican Republic shall not be modified except by previous agreement between the Dominican Government and the United States. In pursuance of this provision the Government of the United States approved the tariff enacted by the Dominican Congress which was put into effect on January 1, 1910. At the time of the approval of the new tariff no change in the municipal or stamp taxes was suggested, and the Government of the United States naturally approved that legislation under the assumption that the taxes then in force which directly affect the importations into the Dominican Republic would remain as theretofore or would not be modified by the Dominican Government without the assent of the Government of the United States. Inasmuch as these taxes imposed by the Dominican Congress apply to imported articles and directly affect import commerce, they are in essence tariff legislation, and the approval of the Government of the United States is necessary to their validity. Their nature is not changed by the mere fact that they are designated as municipal or internal taxes.

As indicated above, these taxes recently levied or authorized by the Dominican Congress, although in form internal and municipal taxes, are in substance and effect additional import duties. It is also clear that in imposing these taxes the Dominican Congress has modified the previously existing import duties without the agreement or consent of the United States, as required by article 3 of the convention of February 8, 1907.

You will discreetly but earnestly take up this matter with the Dominican Government. Your representations at this time should be confined, first, to registering the opinion of this Government that the recent tax legislation is a modification of the Dominican import duties in the sense of article 3 of the convention and that the previous

assent of the United States to the modification required by the convention should have been solicited; and secondly, having emphasized the principle involved, namely the right of the United States under the convention to have its agreement or consent a prerequisite to any modification in the import duties, you will say that this Government reserves for the present its right hereafter to make any specific objections to the recently levied duties which further careful study and examination may show to be necessary. You will represent that from the preliminary study already made it would, however, appear that the recently approved municipal taxes of the commune of Santo Domingo, at least, threaten injuriously to affect the import customs revenues, which so largely serve the bond issue with which the Dominican Republic is discharging its obligations to its creditors and concessionaires. Moreover, it would seem that the recent legislation is likely to prove prejudicial to the best interests of the Republic in the matter.

You will then in connection with the receiver general of the Dominican customs proceed to make a most careful study and investigation of these laws and of the results of their operation (conferring and cooperating in this matter with the receiver general of the Dominican customs, who will be appropriately instructed by the War Department) to the end that you may be prepared to submit to this Department for its consideration the final opinion and judgment of yourself and the receiver general regarding the effect of the operation of these two statutes. You will report your results to the Department so soon as they are obtained, in order that you may be appropriately advised at an early date regarding the attitude which this Government must take upon these specific statutes.

I am, etc.,

P. C. KNOX.

File No. 639.003/28.

The American Minister to the Secretary of State.

No. 47.] AMERICAN LEGATION,
Santo Domingo, April 26, 1911.

SIR: Referring to your No. 29 of March 1, 1911, in regard to [etc.], I have the honor to report that I have brought this matter to the attention of Mr. Velázquez in accordance with your instructions.

In the first place I have handed Mr. Velázquez a memorandum setting forth the position of our Government in regard to these taxes. This memorandum was carefully gone over, and the minister stated that he would like to answer by a countermemorandum, copies and translations of which I herewith inclose. I have had frequent interviews with the general receiver of customs on this subject, and I will send in my full report on the workings of the two taxes in question as soon as I can obtain all the data from the receiver's office.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure 1.]

The American Minister to the Acting Minister for Foreign Affairs.

[Memorandum.]

[The memorandum begins with a verbatim copy of the Secretary's despatch No. 29, above, from the first paragraph, "On August 16, 1910," etc., to the end of the sixth paragraph, "as required by article 3 of the convention of February 8, 1907." It then proceeds:]

In thus emphasizing the principle involved, namely, the right of the United States under the convention to have its agreement or consent a prerequisite to any modification in the import duties, the Government of the United States reserves for the present its right hereafter to make any specific objections to the recently levied duties aforesaid which further careful study and examination may show to be necessary.

From the preliminary study already made it would, however, appear that the recently approved municipal taxes of the Commune of Santo Domingo, at least, threaten injuriously to affect the import customs revenues, which so largely serve the bond issue with which the Dominican Republic is discharging its obligations to its creditors and concessionaires. Moreover it would seem that the recent legislation is likely to prove prejudicial to the best interests of the Republic in the matter.

APRIL 12, 1911.

[Inclosure 2.]

The Acting Minister for Foreign Affairs to the American Minister.

[Counter memorandum—Translation.]

OFFICE OF THE SECRETARY OF STATE FOR FINANCE AND COMMERCE,
Santo Domingo, April 16, 1911.

DEAR MR. RUSSELL: The position taken in your memorandum against the right of the Dominican Republic to sanction the municipal surtax for the city of Santo Domingo, and the stamp tax, is not in accordance with the opinion of the Government on that point.

The convention celebrated on February 8, 1907, between the United States of America and the Dominican Republic provides, in article 3, that the import duties of the Dominican Republic can not be modified except by previous agreement between the two Governments. But the same article, in establishing the condition that said import duties must never fall below $2,000,000 annually, excludes all idea except that the said *modification* is what might reduce the revenues. The United States, in stipulating that condition, could have had no other object in view than that of protecting the interests of the holders of Dominican bonds; and these are perfectly safeguarded as long as the customs import duties are not reduced to $2,000,000.

The stamp tax you refer to is not a creation of latter days. It was voted in 1904, reformed in 1906, and again reformed in 1910; but not only is it anterior to the convention, which did not annul it, but when reformed in 1910 was notably reduced as regards articles of import. There is no ground then to suppose that the modification of the stamp tax law is prejudicial to the customs revenues since, instead of reducing them, the probabilities of their being increased have been augmented.

The municipal surtaxes are likewise not a creation posterior to the convention. Since the birth of the Republic the constitution has recognized in the municipalities the right to create usance and consumption taxes for the commune, which are made legal by Congress.

The schedule of municipal surtaxes at present in force in the city of Santo Domingo is a modification of a tax that was in existence for many years previous.

And what influence that tax has in reducing the customs revenues is shown by the income from the Santo Domingo customhouse last year, when the new municipal surtax went into effect, compared with the year 1909. The revenue increased, as is shown by figures, since the surtax is so low that it can not reduce consumption.

But it is pertinent to observe that, even in the excessive case, scarcely probable, that a reduction of the customs revenues is produced as a necessary consequence of the establishment of these municipal consumption taxes, it would be indispensable, in changing the laws by which they were instituted, as a condition *sine qua non*, that the customs revenues were not exceeding $2,000,000 annually.

Outside of that case—the reduction of the customs revenues below the minimum established by the convention—no criticism can be made of any consumption tax whatever that the Republic sees fit to establish, as the previous agreement between the two Governments under the convention of February 8, 1907, is only necessary for the modification of the import customs duties, with special care that the customs revenues of this nature do not fall below a certain and definite sum.

The convention has not touched on the sovereign right of the Dominican Republic to create taxes of all sorts, as, for example, an export tax, more directly connected with import duties than municipal taxes. It is understood that the convention having had for its object the guarantee of the import duties for the payment of the 5 per cent bonds, the agreement of both Governments, in accordance with the provisions of the convention, is indispensable for any modification of the working of the tariff, any change in which might make a notable and perennial reduction in said import duties.

But that agreement is not necessary nor proper, neither under the convention nor under our laws, while the tariff remains intact, and when, moreover, there is no ground for foreseeing an alarming reduction of said duties. That would be contrary to the spirit and letter, not only of our laws, but of the convention itself. It would be contrary to the interests of the parties, both charged with the development and prosperity of the Dominican Republic, in a national sense, as well as in its municipal functions.

Yours, truly,

FEDCO. V. VELÁZQUEZ H.

File No. 639.003/28.

The Secretary of State to the American Minister.

No. 53.] DEPARTMENT OF STATE,
Washington, June 15, 1911.

SIR: The Department acknowledges the receipt of your dispatch No. 47, of April 26, 1911, relative to the law of the Dominican Republic providing for the imposition of a stamp tax on foreign and domestic letters of exchange, etc., and a resolution of the Dominican Congress approving and putting into operation a municipal surtax upon articles of import levied by the commune of Santo Domingo.

If you have not already done so, you will reiterate and reaffirm the views of this Government as to the proper interpretation of the convention of February 8, 1907, as contained in the Department's instruction No. 29 of March 1, 1911, and the accompanying data.

The Department awaits your full report on the workings of the taxes in question.

I am, etc.,

P. C. KNOX.

File No. 639.003/29.

The American Minister to the Secretary of State.

[Extract.]

No. 64.] AMERICAN LEGATION,
Santo Domingo, July 8, 1911.

SIR: I have the honor to acknowledge the receipt of your communication No. 53 of June 15, and to say that in accordance with

your instructions I have now reiterated and reaffirmed the views of our Government as to the proper interpretation of the convention of February 8, 1907, sending a note to the foreign office with a copy of the memorandum forwarded in my No. 47 of April 26, 1911.

I have been in conference with the general receiver of Dominican customs, and am getting from him data on the working of the taxes in question, and will endeavor to send in a report by the next mail. * * *

I have, etc.,

WILLIAM W. RUSSELL.

File No. 639.003/31.

No. 68.] AMERICAN LEGATION,
Santo Domingo, July 15, 1911.

SIR: Referring to your No. 29 of March 1, and to your No. 53 of June 15, I have the honor to report as follows on the working of the municipal surtax upon articles of import levied by the commune of Santo Domingo:

As stated in my No. 64 of July 8, this municipal surtax as enacted by the municipality and approved by Congress was not a consumption tax. At first it had the effect of imposing a double tax on merchandise shipped from the commune of Santo Domingo to interior cities in other communes, as the municipalities in the interior also collected a similar surtax. The complaints and protests were so numerous that the municipality of Santo Domingo about December, 1910, decided not to collect the tax on goods invoiced direct from here to the interior, and to refund the tax by means of a "waybill rebate." This was done by administrative action, and nothing is known of any action of Congress in the matter. So that at present the municipal surtax is a consumption tax.

I have been very often in conference with the general receiver of Dominican customs, and from a memorandum furnished me by him, as to the practical working of the municipal surtax, I quote as follows:

As to the practical effect of this tax on commerce of the country, it must be admitted and understood that the ordinary commercial statistics such as prepared by the receivership, covering foreign trade, would not in themselves be conclusive. There are innumerable conditions and circumstances which would affect such a showing in addition to this single item of taxation. For instance, the new customs tariff which went into effect January 1, 1910, provided substantially reduced rates on many articles of importation, and even though such articles had not previously been taxed by the municipality, or had been taxed at a lower rate than provided in the new municipal tariff law, the net result would be a reduction and therefore would not tend to curtail or shut out such importations. On the contrary, such importations might increase in volume owing to the tariff encouragement. The general conditions and prosperity of the country also affect such a statistical showing. Hence, any specific figures showing the quantities of rice, flour, cement, etc., imported during the previous years as compared with the same importations for the past year would be entirely misleading if intended to demonstrate that the recargo municipal has had the actual effect in practice of restricting importations. One way of determining the result of the new municipal tax would be a comparison of the amounts collected by the municipality under the old tariff and under the

new. The figures *obtained from the Ayuntamiento* covering the past 10 years' transactions are stated herewith:

1901	$9,555.97
1902	10,566.87
1903	6,544.05
1904	13,605.39
1905	18,109.39
1906	24,109.41
1907	[1] 40,818.68
1908	20,076.31
1909	16,786.11
1910	21,808.54

NOTE.—Or a yearly average of $18,198; new recargo only in operation during concluding part of 1910.

The member of the Ayuntamiento who prepared the new tariff estimated that it would yield $40,000 per year. That yield will bear comparison with the table incorporated above, and furnishes answer to the question propounded as to the practical effect. However, it must be added that the same member now states that the annual expectation will not reach $40,000, on account of having been changed to conform to a consumption tax. On July 11, 1911, actual payments were commenced by the Ayuntamiento to merchants for and on account of taxes previously paid on imported goods *sold outside* of the comuń.

Very late official information, dated *July 13, 1911*, direct from the Ayuntamiento, has been obtained, to wit:

> In the six months there has been collected from the entrances of this year $9,066.57 and of 1910 consigned as values to the collection in the budget $7,745.34 that make a total of $16,811.91. There is still much to collect of the first six months.

The items pending collection, as stated, from the half year 1911, just closed, will offset those due in the earlier period, but *collected* January-June, inclusive, 1911, so that the total reported, $16,811.91, may be accepted as normal for a half year under the new recargo. It certainly furnishes further answer, and of a concrete nature, too, of the practical effect concerning which particular information is sought.

It should not be necessary to attempt to prove by statistics the effect of any tax or multiplication of taxes. The principle of supply and demand governs. There is a limit to taxation on commerce beyond which it can not carry the load.

The lapse of nearly one year since the indirect tariff legislation went into effect, and since the first report on the subject was prepared and submitted, BIA, August 29, 1910, general receiver to the Bureau of Insular Affairs, has brought forth developments which afford food for reflection and a new viewpoint from which a further discussion can be had.

The Dominican customs tariff of 1910, compiled and drafted by the general receivership and submitted to the Dominican Government for its consideration and subsequent enactment, has been in operation since January 1, 1911. Its success has exceeded sanguine expectations, and the encouragement it gave many lines of trade in the Republic, long stifled by improvident tariff laws and rulings, has made possible a net result entirely satisfactory, in the face of and notwithstanding obstacles in its path. Such was the recargo municipal for Santo Domingo, considered untimely, ill advised, and unwarranted because ultra vires if a plain interpretation be given Article III of the American-Dominican convention of February 8, 1907. This provision bears drectly upon and was framed to control *any* modification of the customs tariff, assumed to refer to *both* direct and indirect acts or attempts in contravention of the law cited.

From the very first the position taken by the receivership has been that the issue raised was one of principle, not practice. The safeguards incorporated

[1] At first glance the 1907 collections will appear abnormal, and so was the case. Importations of that year actually were less at port of Santo Domingo than in 1908, yet recargo municipal tax collected in 1907 more than doubled that of 1908. Explanation offered is that in 1907 the treasurer in charge was a very old man, perhaps of 80 years—a virtual pensioner. His office work became so much in arrears that the president of the Ayuntamiento took matters in hand, appointed extra collectors, who rushed matters and not only collected on current accounts but many items due and pending from previous years (a customary state of affairs in Dominican fiscal matters), so that the year's showing was a record breaker, as indicated in the tabulated statement.

in Article III of the convention are eminently proper, if the best interests of the Dominican Government and its foreign obligations are at all times to be the object of serious concern. The good effect so far achieved and the foundation laid for years to come should not be jeopardized or undermined by the imprudent legislative handiwork of those who know absolutely little or nothing of the *true* needs of the situation.

Something already has been accomplished as a result of the agitation of this subject, for a part of the additional burden imposed by the recargo municipal has been lightened, particulars as outlined herein. The opinion is expressed, in this connection, that if the Dominican Government will go on record as admitting, tacitly at any rate, that the Article III involved bears some intrinsic relation to tariff legislation of the country during the life of the convention, and agrees "not to do it again," perhaps no further complaints will be raised against the Santo Domingo recargo municipal in its present modified application.

I have, etc.,

WILLIAM W. RUSSELL.

File No. 639.003/32.

No. 79.] AMERICAN LEGATION,
Santo Domingo, August 5, 1911.

SIR: Referring to the department's No. 53 of June 15, and to my No. 64 of July 8, I have the honor to inclose you herewith copies and translations of the reply of the minister for foreign affairs to my note forwarding a memorandum[1] reiterating and reaffirming the views of the Government of the United States as to the proper interpretation of the convention of February 8, 1907, in regard to the law of the Dominican Republic providing for the imposition of a stamp tax on foreign and domestic letters of exchange, etc., and a resolution of the Dominican Congress putting into operation a municipal surtax upon articles of import levied by the commune of Santo Domingo.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure.]

The Minister for Foreign Affairs to the American Minister.

[Translation.]

OFFICE OF THE SECRETARY OF STATE FOR
FOREIGN RELATIONS OF THE DOMINICAN REPUBLIC,
Santo Domingo, August 3, 1911.

Book B. No. 239.]

Mr. MINISTER: I have the honor to acknowledge the receipt of your excellency's courteous communication of July 7, No. 59, confirming the views contained in the memorandum presented to my predecessor on April 11 last, in regard to the law of July 2, 1910, creating the stamp tax, and the resolution of Congress on the 8th of the same month approving and putting into effect a municipal surtax on certain articles of import established by the municipality of Santo Domingo.

I have examined carefully the points set forth in the above-mentioned memorandum, a copy of which your excellency was pleased to forward for that purpose, and I do not find in them a foundation for the right which the United States thinks it has to criticize said taxes from the viewpoint of article 3 of the Dominican-American convention of February 8, 1907.

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[1] Not printed.

The tax comprised wholly under the law of July 2, 1910, is undoubtedly a particular and internal tax, whose nature and collection are completely different from the nature and collection of those provided for by article 3, which your excellency cites, and consequently not within the reach of this article which refers solely to duties purely from customhouses. A proof of this is that the tariff schedule, in spite of that law, has remained intact.

To have the stamp taxes included under the provisions of article 3 it was necessary to have been so specifically stated, which could have been done had it been the common intention of the high contracting parties, as the law referred to is nothing more than a reproduction of the law of 1906 with some slight changes, which latter law is anterior to the convention.

The position taken by the Government of your excellency leads to the conclusion that the Dominican Government can not in any case, or in any form, establish of its own free will taxes on articles from abroad, which was not the intention of the convention, nor could it have been, as there would have thereby been affected one of the most essential rights of the sovereignty of the Dominican nation.

The reasons set forth above are applicable to the municipal surtax alluded to, and of which it must be said in addition that it is not a creation of the nation, nor is it collected in its name or for its benefit. As a tax on consumption and for local uses it is the work of the municipality of Santo Domingo guaranteed by the constitution. The tax is collected in the name of and for the benefit of said municipality and is applied exclusively to communal uses, and consequently it is not confounded with, nor can it be, as far as the convention is concerned, with national revenues which are the only ones capable of being affected by national engagements.

So that: supposing the impossible case that the municipal tax is customs tariff legislation, and that it was really created by the Nation for its benefit, neither in that case is the Government of your excellency right.

It is true that article 3 provides that for any modification of the import duties of the Republic there must be a previous agreement between the Dominican Government and the United States; but the same article specifies the true reach of this provision, explaining clearly the sense in which said modifications must be understood. The letter and spirit of the convention demonstrate that said agreement is only to be had in case the modification of import duties causes them to be reduced to $2,000,000.

As the principal object of the convention is to guarantee with the customs revenues the payment of the 5 per cent bonds, it was natural that the United States should concern itself that said revenues shoul not fall below a definite sum, and for this reason the provisions of article 3 were established; but there is no rational explanation for that provision when a modification leaves the revenues intact in general or tends to augment them.

On the other hand, the municipal tax referred to is so small that there is no danger that it will have any influence on the customs revenues, as proved by the fact that far from being diminished said revenues have increased, giving more guarantee, in consequence, for the fulfillment of the obligations of the nation.

The position of my Government then is in direct line with the provisions of the oft referred-to article 3. And even if there should be any ambiguity or obscurity in said article the interpretation would have to be made in conformity to that position which is that which is in harmony with the right of sovereignty of the Dominican Nation.

My Government, the best judge on the subject, is of the opinion that the legislation referred to by your excellency, far from being prejudicial to the best interests of the Republic, is a factor for good, because with an increase in the revenues, no damages of any sort being occasioned, the prosperity of the country is increased; said revenues being applied with greater zeal and honesty to works of common progress, as your excellency will see on comparing the present state of the Republic with that of former years.

My Government hopes that your excellency, with your usual high spirit of justice, will know how to appreciate in their just value the arguments in favor of the Dominican Government in this case, and consequently will not insist upon a discussion which as far as the United States is concerned is at least lacking in interest.

The occasion is favorable for renewing, etc.

J. M. CABRAL Y BÁEZ.

File 639.003/33.

No. 80.] AMERICAN LEGATION,
Santo Domingo, August 5, 1911.

SIR: I have the honor to inclose you herewith copies of the Official Gazette,[1] with the decree of the municipality of Santo Domingo abolishing the municipal surtax on several articles of import.

It appeared to me that, as Congress passed a resolution authorizing the municipality to establish this surtax, Congress might have to approve any change therein. I accordingly interviewed Mr. Velázquez, and he stated to me that during the last session of Congress the municipality of Santo Domingo petitioned that body for authority to make some changes in the municipal surtax. Congress decided that any action by it on this subject was unnecessary, but with the understanding that any changes must be a revision downward, that is, a reduction, but that there must be no change that would operate to increase taxation.

In this connection I will state that Mr. Velázquez has promised to look into the matter of the apparently discriminating tax against American soap, and the ayuntamiento may take the same action in this matter as was done with the articles mentioned in the published decree.

I have, etc.,

WILLIAM W. RUSSELL.

File No. 639.003/33.

The Acting Secretary of State to the American Chargé d'Affaires.

No. 69.] DEPARTMENT OF STATE,
Washington, October 23, 1911.

SIR: The Department has received Mr. Russell's No. 68 of July 15, 1911, and his No. 79 and No. 80, both of August 5, 1911, in regard to the municipal surtax levied on imports in the commune of Santo Domingo and the stamp tax which in part applies to articles of import.

The Department has considered the report upon the working of the municipal surtax made in Mr. Russell's No. 68, of July 15, and under the circumstances therein set forth has decided to adopt the suggestion that further specific complaint against the recargo municipal be suspended for the present at any rate.

In this connection, however, you will understand that the Department desires you to continue your efforts to effect the abolition of the discrimination against American soap, referred to in Mr. Russell's No. 80, of August 5, should the matter still be pending. You will, of course, also continue to study further complaints which may be made of this enactment and the stamp-tax law, and will report to the Department thereon.

The Department also is convinced of the imperative necessity of further determined insistence on the principle involved, namely, the right of this Government under article 3 of the convention of 1907 to have its consent a prerequisite to every modification of the Do-

[1] Not printed.

minican import duties during the life of the convention, and desires that its position in this regard be tactfully but emphatically laid before the Dominican Government to the end that in future when further modifications of the import duties are contemplated the Dominican authorities will submit the proposed changes for the approval and consent of this Government. You are accordingly instructed to reply to the note of the minister for foreign affairs, dated August 3, transmitted to the Department with your No. 79, of August 5, in the sense of the following:

The Department of State has instructed you to inform the Dominican Government that, after due consideration of the arguments advanced in this and previous similar representations, it continues firmly convinced of the rightfulness of its contention that the stamp and municipal taxes lately enacted and approved by the Dominican Congress effected changes in the Dominican import duties in the sense of article 3 of the convention of February 8, 1907, and that the previous consent and approval of this Government should have been solicited before the laws were put into operation.

Article 3 of the convention in its language, "a like agreement shall be necessary to modify the import duties," clearly comprehends all import duties, of whatever nature. In view of this general and all-embracing description of the duties designated, it is difficult to perceive how the scope of the article can be restricted to apply to the specific matter of the duties established in the formal customs tariff. Accordingly the recargo municipal and the portion of the stamp-tax law applying to imports seem as clearly within the language of article 3 as the customs tariff itself. Irrespective of their names, these taxes are by design and in effect "import duties," supplemental to the formal tariff duties. Potentially, if not in all cases actually, they are of as much importance to the Dominican commerce as the tariff schedule itself. To declare that they are not included within the purview of article 3 is to put a construction upon that article which makes it meaningless and of no effect. The mere fact that the taxes were not specifically mentioned in article 3, though they existed prior to the convention, would seem to have no more significance than the fact that the existing customs tariff was not specifically mentioned.

In reply to the suggestion that the recargo municipal, being a purely municipal matter, is not comprehended within the national engagement, it would seem necessary simply to refer to the condition which existed at the time the convention was made and which now persists, namely, that the tax derives its validity and binding effect wholly from the will and sanction of the nation's Congress.

Finally, in reply to the suggestion that the previous consent of this Government to a modification of the import duties is to be sought only in the event that a proposed modification, when put into operation, shall cause the revenue from the duties to be reduced to $2,000,000, it must be stated that such a construction seems impossible of application to the plain language of the article under discussion. Both the arrangement of the article and its context as a whole would seem to establish beyond possibility of controversy that the condition referred to, namely,

> That the Dominican Executive demonstrate and that the President of the United States recognize that, on the basis of exportations and importations to the like amount and the like character during the two years preceding that in

which it is desired to make such modification, the total net customs receipts would at such altered rates of duties have been for each of such two years in excess of the sum of $2,000,000, United States gold,

is simply a condition precedent *to an assent by the United States to any actual modification of the duties.* The language immediately preceding the condition, namely,

it being an indispensable condition *for the modification of such duties,*

would seem absolutely to preclude the possibility of construing it as a condition precedent to the obligation of the Dominican Government to submit, and to the right the United States to pass upon, any and every proposed modification of the import duties.

It is upon this particular right to be notified of the proposed modification of the import duties and to have its assent obtained to such modification, a right clearly and unmistakably given by the convention entered into by the two Governments, that the Government of the United States must insist. Irrespective of the actual consequences of the present or possible future modifications, the right of the United States in the premises is potentially of such vital importance that it would be gravely remiss in the performance of its solemn duties under the convention were it to concede it away.

In regard to the recent modification effected by the recargo municipal and the estampilla law, after careful investigation and continued study of the effect of these laws, the Government of the United States is of the opinion that while the recargo municipal especially seems to have been in some respects ill-advised and to have been an obstacle to the success of the new customs tariff, its defects do not seem, as the Department is at present informed, sufficiently serious to render imperative at this time any further changes than those already made or now contemplated. Accordingly, the Department will now make no specific objection, but will content itself simply with having made clear its view as to the rights of this Government under the convention, confident that in future should further modification of the Dominican import duties be contemplated, as a result of the present discussion and explanation, the Government of the Dominican Republic will fulfill the obligations imposed by the convention and will notify and consult with the representative of the Government of the United States.

I am, etc.,

ALVEY A. ADEE.

BOUNDARY DISPUTE BETWEEN THE DOMINICAN REPUBLIC AND HAITI.

File No. 738.3915/30.

The American Consul to the Secretary of State.

AMERICAN CONSULATE,
Puerto Plata, December 29, 1910.

No. 21.]

SIR: I have the honor to report that on December 27 it was generally reported in Puerto Plata that there was fighting on the frontier. A telegram was received at this office from Consular Agent Petit, at Monte Cristi, stating that it was reported that there was a concentration of Haitian forces at Fort Liberté, on the northern

frontier. On the afternoon of the 28th, advice was received that the two Governments were trying to settle amicably their differences. Everything remained quiet until the afternoon of the 29th, when a telegram was received stating that Sr. Cabral, secretary for foreign affairs, said that it was impossible for the Haitian and Dominican Governments to come to an agreement. The city of Puerto Plata is now very much agitated.

The trouble between the two Governments is over a disputed boundary line.

In July [1910] the Dominican Government began to build a road on the boundary line for the purpose of facilitating traffic and to prevent smuggling. The work was carried on without molestation until December 14, when the chief of Grand Gosier requested of the engineer that the works be suspended, as Haitian territory was being encroached upon. The engineer in charge replied that he could not suspend work without orders from the Dominican Government.

On December 24 a Haitian steamer arrived at Anses a Pitre with 50 men and 500 guns, and later on the governor of Saltrou arrived at the head of additional troops.

The Dominican Government on December 26 sent troops by the American steamship *Cherokee* and the Dominican gunboat *Independencia* to Pedernales to defend the frontier, and at the same time cabled to the minister at Port-au-Prince that Haiti's action was understood as a threat, and requested the retirement of the Haitian troops.

I have, etc.,

PHILIP E. HOLLAND.

File No. 738.3915/27.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, January 2, 1911.

The Dominican Government has proposed to the Haitian Government that a mixed commission of two Dominicans and two Haitians proceed to the frontier to determine whether the road which is being built by the Dominican Government encroaches on Haitian territory, and that all troops, except necessary frontier guards, be withdrawn. War is not desired by the Dominican Government, but that Government is prepared to defend its rights by force of arms.

RUSSELL.

File No. 738.3915/35.

The American Minister to Haiti to the Secretary of State.

No. 803.] AMERICAN LEGATION,
Port au Prince, January 7, 1911.

SIR: I have the honor to report that the Haitian Government has designated a commission to go to the seat of the recent trouble on the frontier near Pedernales, and report on the same. This commission

left Port au Prince on the 5th instant for Pedernales, the seat of the present difficulty, where they will meet a commission from the Dominican Government.

H. W. FURNISS.

File No. 738.3915/43.

The American Minister to the Secretary of State.

No. 25.] AMERICAN LEGATION,
Santo Domingo, January 14, 1911.

SIR: The minister for foreign affairs told me this morning that the Haitian Government had refused to accept Santo Domingo's proposition for a joint commission as outlined in my last cable. A commission from Haiti is now at the frontier with the Haitian minister to Santo Domingo. Santo Domingo has also sent two commissioners. These commissioners and the Haitian commission are expected to arrive at some satisfactory *modus vivendi*. The Dominican troops are still at the scene, but are expected to be withdrawn very soon.

I have, etc.,

WILLIAM W. RUSSELL.

File No. 738.3915/41.

The American Minister to Haiti to the Secretary of State.

No. 808.] AMERICAN LEGATION,
Port au Prince, January 16, 1911.

SIR: I have the honor to state that I had a long talk with President Simon to-day, during the course of which he said that in view of the menacing attitude of Santo Domingo, Haiti could not accede to the request of Santo Domingo and permit it to continue with the construction of the road which has been the cause of the present difficulty.

When asked as to what solution to the difficulty the Haitian Government proposed, he stated that he was in favor of suspending all work pending arbitration on the boundary question. He made some inquiry of me as to The Hague Tribunal, and upon my assurance that that tribunal could be relied upon as being impartial he said that he would favor its arbitrating.

I have, etc.,

H. W. FURNISS.

File No. 738.3915/49.

[Translation—Extract.]

Official statement of Haitian Government, published in Le Moniteur of January 25, 1911.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS.

The Government, faithful in its duty of informing the people concerning the incident at Pedernales, advises that its commissioners returned on the 19th of this month without having been able to settle amicably the dispute existing between the two Republics. There has

been drawn up by the commissioners of the two States the following report,[1] which brings their mission to an end, and by which they have declared that they leave the matter to the decision of their respective Governments.

File No. 738.3915/36.

The American Minister to Haiti to the Secretary of State.

[Telegrams—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, January 20, 1911.

During an interview with the President the latter stated that the Haitian minister at Santo Domingo had been instructed to offer prompt arbitration; that both Governments should withdraw their troops, and further construction of the road should be suspended. He stated that Haiti is prepared to defend her rights by force of arms, but prefers arbitration to permanently settle the difficulty. He requests the good offices of the President of the United States to prevent war and to urge arbitration of the pending difficulties. The German minister at Port au Prince offered to request the good offices of his Government, but the President of Haiti, being assured of the disinterestedness of the United States, prefers to make his request to that Government.

FURNISS.

File No. 738.3915/37.

JANUARY 21, 1911.

Reports that in the opinion of the French and German ministers at Port au Prince the Government of the United States should insist upon the maintenance of the status quo and that the pending question should be submitted to arbitration. The British representative was also present at the interview, but declined to concur.

FURNISS.

File No. 738.3915/36.

The Secretary of State to the American Minister.[2]

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 21, 1911.

Immediately communicate the following to the minister for foreign affairs:

The Government of the United States has learned with concern and regret of the tension existing in the relations between the Dominican Republic and the Republic of Haiti and of the possibility that the present difficulty may result in a breach of relations or even in acts of hostility and bloodshed. In response to the express wish of the Government of Haiti and in its earnest desire that peace should be preserved, and a settlement both just and honorable of the present dispute between these two Republics should be reached, the Government of the United States hastens to proffer its good offices to this end.

KNOX.

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[1] Not printed.
[2] The same telegram, mutatis mutandis, to the American minister to Haiti.

File No. 738.3915/39.

The American Minister to Haiti to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, January 22, 1911.

Conveys the great appreciation of the President of Haiti for the friendly proffer of good offices extended by the Government of the United States.

FURNISS.

File No. 738.3915/50

The American Minister to the Dominican Minister for Foreign Affairs.

No. 18.] AMERICAN LEGATION,
Santo Domingo, January 24, 1911.

Mr. MINISTER: I have the honor to inform you that I am in receipt of a cable communication from my Government instructing me to say to your excellency that [verbatim quotation of the communication in the telegram of January 21 from the Secretary of State].

Accept, etc.,

W. W. RUSSELL.

File No. 738.3915/50.

No. 19.] AMERICAN LEGATION,
Santo Domingo, January 26, 1911.

Mr. MINISTER: Referring to my communication of the 24th instant, I have the honor to inform your excellency that I am in receipt of further instructions[1] from my Government in the matter of the Haitian frontier question.

Between the Dominican Government's proposal of a Dominican-Haitian commission to decide whether the road being built by the Republic of Santo Domingo penetrates Haitian territory, with the stipulation that, pending a decision, all troops be withdrawn except a frontier guard, and the recent Haitian proposal of January 20 that there be prompt arbitration with a stipulation that the construction of the road be suspended, that all troops be withdrawn, thus maintaining the status quo and preserving peace, there appears to be no essential difference. The Government of the United States can not believe therefore that the minor points regarding the maintenance of the status quo and the cessation of work on the road pending a settlement can be regarded as sufficiently important to warrant any delay whatever in drawing up a suitable compromis for the settlement of the matter by arbitration, and much less as sufficient to warrant any further mention by either party of a resort to arms. The Government of the United States therefore feels that the two Governments should at once unite in framing a compromis providing for early adjustment of this question under the essential conditions that have now been agreed upon by both, meanwhile the status quo to be

[1] Not printed; their exact terms are repeated in the following two paragraphs.

maintained, troops to withdrawn from the border, and work to cease on the road until the question is finally determined.

The close and special relations which the Government of the United States has to the Dominican Republic and its international administration by virtue of the rights granted to and obligations imposed upon it under the treaty of 1907, and the peculiar interest taken by it in the welfare of both the Dominican Republic and the Republic of Haiti, impel it to press upon these two Republics the urgent necessity that an amicable adjustment of these differences be immediately secured. The Government of the United States will be glad to exercise its friendly good offices to facilitate such an arrangement should the two Governments so desire.

I take this occasion to renew to your excellency the assurance of my most distinguished consideration.

WILLIAM W. RUSSELL.

File No. 738.3915/50.

The Minister for Foreign Affairs to the American Minister.

[Translation.]

Liber B. No. 35.] SANTO DOMINGO, *January 26, 1911.*

Mr. MINISTER: I have the honor to acknowledge the receipt of the courteous note No. 18 which you were pleased to address me on the 24th instant, to inform me that you had been instructed by your Government to say that [etc.].

In reply I deem it proper before all to state—regarding the assertion that the recent incident between the Dominican Republic and the Republic of Haiti may cause a rupture of relations and even acts of hostility and bloodshed—that the Dominican Government sent soldiers to the southern frontier for the sole reason that the Haitian Government had stationed strong detachments of troops in the same region for the ostensible purpose of preventing the continuance of the work of construction of a road the Dominican Government is opening on territory indisputably within its jurisdiction to facilitate the transit of the guards for the prevention of contraband; but as the Haitian Government withdrew its troops and so informed me through its minister here, the Dominican Government opportunely issued orders for the withdrawal of our troops. For this reason the Dominican Government thought that all probability of a rupture of relations must disappear and, much more, acts of hostility and bloodshed; and it is so profoundly convinced of this from the faith it puts in the declarations of cordiality and desires for peace recently made to it by the Haitian Government, that it views without alarm the actual massing of troops by said Government in localities near the frontier. For the above reason and because, at the initiative of the Government of the neighboring Republic, my Government had just accepted, in principle, that the whole frontier question be submitted to arbitration, it can not but cause surprise that the Haitian Government should ask for the good offices of the Government of your excellency.

This surprise, however, does not lessen the feeling of gratitude with which my Government accepts the offer which your excellency

makes in the name of your Government; since, in view of the relations of unalterable friendship which have ever united the Dominican people with the people of the United States, and of the spirit of impartiality which has always characterized the conduct of the Great Republic in similar cases, there can only come from those good offices now offered a decorous and lasting settlement for the two countries that share the dominion of this island.

I can then state to your excellency that my Government accepts those good offices with the sole reserve due to the limitations of the constitution, which is the source of all its powers, and within that limitation my Government will exhaust every effort to reach a definite solution of the now vexing problem of its frontier question.

JOSÉ M. CABRAL Y BAEZ.

File No. 738.3915/50.

[Translation.]

Liber B. No. 37.] SANTO DOMINGO, *January 27, 1911.*

Mr. MINISTER: I have the honor to refer to your excellency's note of yesterday, in which you inform me that, in accordance with new instructions your excellency has received, the Government of the United States thinks that the Dominican Republic and the Republic of Haiti should agree upon a compromis for the prompt settlement of their frontier difficulties and that in the meanwhile the status quo should be maintained, troops withdrawn from the frontier, and work on the road stopped until the question is definitey decided.

In regard to the first point, I already had the honor to say to your excellency in the note which I sent you yesterday in answer to the aforementioned one from your excellency on the 24th instant that the Dominican Government, "at the initiative of the Government of the neighboring Republic, has just accepted, in principle, that the whole frontier question should be submitted to arbitration"; for which, and because a rapid solution is of the greatest importance to the Dominican Republic, since that state of indecision and dispute favors contraband operations and the escape of criminals by keeping out of its jurisdiction a large part of the frontier region, my Government would be very glad if Haiti would be ready to draft a convention for that purpose, and hopes that the good offices of the United States will contribute to a realization of this in the shortest possible time.

In regard to the second point, the withdrawal of troops, I am pleased to report to your excellency what I had the honor to say in my note of yesterday: "That, as the Haitian Government withdrew its troops from the southern border, and I was so informed by its minister here, the Dominican Government opportunely issued orders for the withdrawal of our troops," and to say to you that these orders have been carried out; it consequently being Haiti's turn to withdraw those troops it is at present massing in the region near the frontiers of the north and center, thus complying with the laudable wishes of the Government of the United States.

In regard to the work on the road which the Dominican Government is building on the eastern bank of the river Pedernales, for the

easier and more effective service of its frontier guards, I can say to you that, thanks to the valuable tender of good offices from the Government of your excellency, our frontier differences bid fair to be promptly solved, and that my Government agrees with great pleasure to suspend said work for a sufficient length of time for the rendering of an arbitral decision, but on account of the grave damages caused to the Dominican Republic while those frontier questions remain unsettled, it will be obliged to renew said work if for any reason attributable to the Government of Haiti there should be delays in arriving at a definite settlement.

Lastly I must say to your excellency that the status quo implies dominion and sovereignty of the Dominican Republic over the territory on the eastern bank of the river Pedernales.

I avail, etc.,

JOSÉ M. CABRAL Y BAEZ.

File No. 738.3915/44.

The Secretary of State to the American Minister to Haiti.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 31, 1911.

The Government of the Dominican Republic has informed the American minister at Santo Domingo that the troops have been withdrawn, that it accepts the good offices of the Government of the United States, and that it agrees to the suspension of further construction on the road long enough to arrive at an arbitral decision. The Government of the Dominican Republic suggests that the Haitian troops be withdrawn now from the frontier and that it desires to hear that the Government of Haiti is ready to enter into negotiations for a convention for arbitration of the pending question. Instructs him to make urgent representations to the Government of Haiti for the withdrawal of the troops, and to inform that Government that the Government of the United States would gladly assist in the negotiations of that convention if the ministers of Haiti and the Dominican Republic at Washington are appropriately instructed.

KNOX.

The same mutatis mutandis to the American minister at Santo Domingo.

File No. 738.3915/46.

The American Minister to Haiti to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, February 1, 1911,

Reports that the President of Haiti has assured him that the troops will be withdrawn at once from the north and central frontier and the army will be reduced to a peace footing. The troops recently ordered to the frontier from other parts of the Republic have been ordered home.

Instructions will be sent to the Haitian minister at Washington to request the good offices of the Government of the United States to negotiate a treaty for the arbitration of the controversy.

FURNISS.

File No. 738.3915/52.

The Department of State to the Haitian Minister.

[Aide memoire.]

DEPARTMENT OF STATE,
Washington, March 9, 1911.

The Department of State has been informed by the Dominican Legation that the construction of the road from Pedernales to Jimani is an imperative necessity in order to prevent the smuggling of goods into the Dominican Republic, and that if the work on the road should be long delayed much loss would be caused the Dominican Government.

The Department of State does not perceive any valid objection that might be urged against the construction of the road if it were permitted under an express agreement that the continuance of work thereon should in nowise prejudice the rights of Haiti in the disputed territory, and trusts that under the circumstances as represented by the Dominican Government, it will be found possible to arrange therefor.

File No. 738.3915/52.

The Acting Secretary of State to the American Minister to Haiti.

[Telegram—Precis.]

DEPARTMENT OF STATE,
Washington, March 9, 1911.

Communicates the above aide memoire and instructs him to endeavor to obtain the consent of the Government of Haiti that the construction of the road may be continued.

WILSON.

File No. 738.3915/53.

The American Minister to Haiti to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, March 11, 1911.

By appointment, I have just had an interview with the President of Haiti. Although ordered to be present at the interview, the minister for foreign affairs did not attend. As the Department's aide memoire of March 9, 2 p. m., had not been seen by the President, I gave him a copy. The President asked me to inform my Government that he can not consent to the construction of the proposed road until a decision has been reached by an arbitral court, and that the time necessary for such a decision should not prejudice the interests of the Dominican Government, as the Haitian Government is ready for an immediate arbitration of the questions involved, having

already designated its commission, headed by the minister of Haiti at Paris. The President adds that, owing to the character of the section in dispute there is very little, if any, contraband crossing it, and that the Haitian Government is willing to help in suppressing any that does exist.

File No. 738.3915/55.

No. 849.] AMERICAN LEGATION,
Port au Prince, March 15, 1911.

Sir: I have the honor to inclose herewith the correspondence between this legation and the Haitian Government relative to the negotiation by our Government of a convention for arbitration of the frontier question between Haiti and Santo Domingo.

It is to be noted that the secretary of foreign relations states that the Haitian Government will be pleased to send to its minister at Washington instructions to request the American Government to negotiate the convention.

I have, etc.,

H. W. FURNISS.

[Inclosure 1—Extract.]

File No. 738.3915/55.

The American Minister to the Haitian Secretary for Foreign Relations.

No. 471.] AMERICAN LEGATION,
Port au Prince, February 1, 1911.

SIR: Agreeably to cable instructions from my Government, I called at the department of foreign relations this morning to present to your excellency certain information and observations relative to the pending Haitian-Dominican boundary question. A messenger was sent both to the palace and to your private residence, but being unable to ascertain where I might find your excellency, and the matter being of great importance, I called at the palace and communicated the following to His Excellency the President. [See Department's telegram of Jan. 31, 1911, and Minister Furniss's telegram of Feb. 1, 1911.]

H. W. FURNISS.

[Inclosure 2—Translation.]

File No. 738.3915/55.

The Haitian Secretary for Foreign Relations to the American Minister.

PORT AU PRINCE, *March 11, 1911.*

Mr. MINISTER: On account of the late events which have unsettled the country these last days, it has not been possible for me to reply to your note No. 471, where you state, among other things, that the Government of the United States would be glad to assist in the negotiation of a convention for the arbitration of the frontier question between Haiti and Santo Domingo if the Governments interested would so instruct their ministers at Washington.

Now that peace is reestablished, it is with pleasure that I shall bring to the attention of the Government your communication and will hasten to make known to you that which shall have been decided in this regard.

In the meanwhile, I avail, etc.

PETION P. ANDRÉ.

[Inclosure 3—Translation.]

File No. 738.3915/55.

The Haitian Secretary for Foreign Relations to the American Minister.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, March 14, 1911.

Mr. MINISTER: Folowing my letter of the 11th of this month acknowledging receipt of that which you addressed to me February 1 past, in which you informed me "that the Dominican Government accepts the good offices of the Government of the United States" and that it would like to know "if Haiti is disposed to negotiate a convention for the arbitration of the frontier question," I have the honor to inform you that the Haitien Government has always considered that arbitration was the most efficacious and at the same time the most equitable means to regulate litigation arising between States and which can not be decided by diplomatic means.

In fact, it is in conformity with this thought, with a view to the regulation of the frontier question, that Haiti and Santo Domingo in 1895 concluded a convention of arbitration. But, the Dominican Government, having refused for some time to put this convention in execution, as a result has caused a dispute between the two States which the Haitien Government, always true to its principles in regard to arbitration, has constantly insisted that the Cabinet of Santo Domingo should refer to the tribunal of arbitration. The two high contracting parties, in fact, not being able to come to a further agreement relative to the question of the validity of the conventions made in good faith between them in 1895 and 1898, with the object of solving the frontier question, there was consequently remaining only one pacific means: to agree to arbitration.

Likewise, His Excellency, President A. Simon, as well as his Government, has been happy to learn that the Dominican Government has at last decided to have recourse to the arbitration proposed and that the negotiations for a convention to this effect will take place at Washington with the impartial and friendly assistance of the honorable Government of the United States.

It is with pleasure that the department of foreign relations will send to the representative of Haiti at Washington full powers with the necessary instructions to this end.

In the meanwhile, the Haitian Government takes note that the Dominican Government has suspended the work on the route undertaken in the southern region.

I take this occasion to inform your excellency that the Haitien troops which were on the frontier have been for a long time recalled—in fact, at the same time when the Dominican Government recalled its troops.

Please accept, etc.,

PETION P. ANDRÉ.

File No. 738.3915/56.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 5, 1911.

Pending final decision of the boundary controversy, the Haitian Government refuses to consent to continuance of work on Pedernales road.

The Department is informed by the minister of Haiti that he has received from his Government full powers to negotiate with the Dominican Government a protocol for arbitration, and he requests the Department to endeavor to have similar authorization given to the Dominican minister in Washington, in order that the submission of the boundary controversy to arbitration may be promptly concluded. This Government would be glad, as has heretofore been stated, to assist in framing a protocol of arbitration.

P. C. KNOX.

File No. 738.3915/60.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, April 24, 1911.

The minister for foreign affairs has informed him that authorization to conclude a convention for the submission of the boundary question to arbitration was sent to the Dominican minister at Washington by last mail. He also stated that his Government does not confine itself to arbitration by The Hague Tribunal and will accept such other form of arbitration as may be decided upon.

RUSSELL.

File No. 738.3915/61.

The Legation of Haiti to the Department of State.

[Aide mémoire—Translation.]

LEGATION OF HAITI,
Washington, April 27, 1911.

Following the partition that took place in 1844 in the Republic of Haiti war prevailed for a long period between the eastern Provinces of Haiti and the central Government. Thirty years were spent in more or less active hostilities before a treaty of peace was concluded in 1874 between the Haitian Government and the new State set up by those Provinces under the name of Dominican Republic.

Article 12 of the treaty provides that "the high contracting parties formally pledge themselves to establish, in the manner most conformable to equity and to the reciprocal interest of the two peoples, the boundary line dividing their present possessions." This requirement was to be made the object of a special treaty and the two Governments were to appoint their commissioners to that effect as soon as possible.

But the Dominican Government claimed, in 1883, that Article IV of the treaty did not prescribe for the purpose of delimitation the *uti possidetis* of 1874 when the treaty of peace was signed but rather the *uti possidetis* of 1856, from which time, in the opinion of the Dominican Government, there was a cessation of the hostilities between the new State and the Republic of Haiti.

The Haitian Government contends and always contended that the *uti possidetis* of 1874 is that adopted and sanctioned by the treaty of peace for the demarcation of the boundary between the two States inasmuch as the phrase "present possessions" can have no other meaning than that of the possessions held by the two peoples at the time of the signature of the treaty of peace.

In order to avert a conflict and in evidence of the good will and conciliatory spirit by which it was animated, the Haitian Government consented, in 1895, on the reiterated request of the Dominican Government, to refer to the Supreme Pontiff's arbitration the interpretation of Article IV, to wit, whether the phrase "present possessions" implies, for the purpose of delimination, the *uti possidetis of 1874* or the *status quo post bellum of* 1856.

An arbitration convention was signed to that effect in 1895 and the plenipotentiaries of the two contracting parties proceeded to Rome to vindicate their claims before the chosen arbitrator, Leo XIII, the Holy Father. In the meanwhile the Pope's arbitration having been blocked by certain circumstances, the Haitian and Dominican Governments agreed to conclude the convention of 1898 which finally solves the difficulties that had stood in the way of the delimitation between the two states.

From 1899 to 1908 the Dominican Government declined to give effect to those two conventions of 1895 and 1898. And quite recently, much to the Haitian Government's surprise, the Santo Domingo Cabinet declared in its report to Congress in 1909 that those two conventions are not valid, thus casting doubts on the validity of those diplomatic instruments.

And so, assuming to settle by itself the delimitation of the boundary line, it undertook to open a road across the Pedernales region which undisputably lies within Haitian territory.

The two countries nearly came into a grave armed conflict. Happily, impartial minds, friendly to the two parties involved, saw that the question in dispute, viz, that of the conventions of 1895 and 1898, can be passed upon by the Permanent Court of Arbitration, sitting at The Hague.

But it appears from intimations just received by the Haitian Government from its minister at Santo Domingo that the Dominican Government, although it has accepted the good offices of the Government of the United States of America, hesitates about proceeding with the negotiations for the convention by which the two Governments are to submit to the Permanent Court of The Hague the arbitration of the interlocutory question as to the validity of the disputed conventions.

Such a course on the part of the Dominican Government can not be accounted for. It may be followed by grave consequences to both countries which are compelled to maintain an attitude of expectancy involving unnecessary outlay. Furthermore, another conflict entailing war may at any time take place between them in spite of the good will and conciliatory spirit the Haitian Government has evinced in this important matter.

The Haitian Government would be glad of the Honorable Secretary of State's cooperation in obtaining from the Dominican Government that the negotiations for an arbitration convention be entered into as soon as possible in Washington.

File No. 738.3915/67.

The Secretary of State to the American Minister.[1]

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 6, 1911.

Informs him that the Dominican commissioners at a meeting of the Dominican and Haitian plenipotentiaries acknowledged the Haitian powers to be in due and proper form but considered that cer-

[1] The same to the American legation at Port au Prince.

tain restrictions contained therein made these powers so narrow as to make it impossible to proceed with the negotiations. Both delegations have referred the matter to their respective Governments. An unnecessary delay in the negotiations would be regrettable. Instructs him to endeavor to have instructions sent to the delegates to consult further with the Department, which is willing to assist in every proper way to arrive at a solution of the difficulties.

KNOX.

File No. 738.3915/73.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, June 20, 1911.

The minister for foreign affairs has requested me to inform you that a communication goes forward by to-day's mail instructing the Dominican plenipotentiaries to endeavor by every possible effort to effect a satisfactory settlement of the boundary dispute and not to break off negotiations before consulting with the Secretary of State of the United States.

RUSSELL.

File No. 738.3915/77.

The Dominican Commissioners to the Secretary of State.

[Translation.]

WASHINGTON, *August 30, 1911.*

HON. MR. SECRETARY: We have the honor to inform your excellency that, by reason of the political events which recently occurred in Haiti and brought about a change in the personnel of the Government of that Republic, it is to be presumed that the new régime will prefer to give its whole attention at present to the work of internal organization, wherefore there can be no certainty that it will be for the time being possible to bring to a conclusion the protocol we were commissioned to arrange with its representative in the North American Union. For that reason and it being impracticable for us to stay indefinitely away from Santo Domingo, our Government has authorized us to return after discharging the pleasant duty, which we hereby do, of assuring your Department that our departure in no wise implies a relinquishment on the part of the Dominican Government of its high purpose to reach an early final settlement of its boundary question, toward which the Government so efficiently and worthily represented by your excellency tendered its weighty good offices.

We take, etc.,

FRANCO J. PEYNADO.
APOLINAR TEJERA.

File No. 738.3915/85.

The American Minister to Haiti to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, November 15, 1911.

The direct cause of the boundary dispute was the establishment of military posts by the Dominican Republic on territory heretofore recognized as Haitian. These military posts are still maintained, notwithstanding the fact that the Dominican Government agreed, pending the settlement of the dispute, to recognize the status quo line. The Haitian Government now refuses to permit soldiers to pass from the post established at Bois Tombé to other posts within the status quo line. The Government of Haiti requests that these posts be removed pending the negotiations for settlement of the dispute.

FURNISS.

File No. 738.3915/85.

The Secretary of State to the American Minister to Haiti.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE.
Washington, November 22, 1911.

The Department has had no word from Santo Domingo concerning the refusal of the Haitian Government to permit the transit of Dominican soldiers. Instructs him to urge the advisability of an attitude of conciliation on the Government of Haiti.

KNOX.

File No. 738.3915/86.

[Extract.]

The American Minister to Haiti to the Secretary of State.

No. 974.] AMERICAN LEGATION,
Port au Prince, November 23, 1911.

SIR: Upon the receipt of the Department's November 22, 2 p. m., I called upon Secretary Léger and tried to urge a conciliatory attitude pending the settlement of the boundary dispute, but he absolutely refused to consent to what he styles an invasion. He says that if the Dominicans do not withdraw the Haitian Government will exert every possible means to force them to do so. He insists that the status quo line be respected pending negotiations for the permanent settlement of the question.

I have, etc.

H. W. FURNISS.

File No. 738.3915/87.

The Secretary of State to the American Minister to Haiti.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 21, 1911.

The American minister at Santo Domingo reports that he has been informed by the Dominican minister for foreign affairs that there is grave danger of conflict between armed Dominicans and Haitians in the territory under dispute, especially at Los Pinos, Florida, El Numero, and Pedernales, though the Government of the Dominican Republic is endeavoring to maintain peace, and that the Haitian Government is daily encroaching and establishing posts on Dominican territory. Advises him of the urgent necessity of the cessation of such acts, and that the status quo must be maintained pending the ultimate settlement of the dispute. Instructs him to make appropriate representations to the Government of Haiti.

KNOX.

File No. 738.3915/88.

The American Minister to Haiti to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, December 22, 1911.

Reports that the Haitian minister for foreign affairs has stated that no Haitians have encroached upon Dominican territory; that the status quo line, on which guards have been reestablished, was occupied by Haiti uncontested by the Dominican Republic until the beginning of the present dispute a year ago. He further states that, if necessary, the Government of Haiti is prepared to defend the status quo line by force pending the permanent settlement of the dispute. Should the powers for negotiation given to the Haitian minister at Washington be deemed insufficient the Government of Haiti will grant such others as may be indicated by the Department of State.

FURNISS.

File No. 738.3915/91.

AMERICAN LEGATION,
No. 993.] *Port au Prince, December 23, 1911.*

SIR: I have the honor to state that upon the receipt of the Department's December 21, 6 p. m., I immediately called upon Secretary Léger and took up the matter with him.

It happened that we had already discussed, earlier in the day, the Haitian-Dominican boundary question, and Mr. Léger told me that he had had some correspondence with the Dominican minister relative thereto.

Mr. Léger stated that it is the keen desire of the Haitian Government to have this matter settled at the earliest possible moment, and

that if the powers already given their representative at Washington are not sufficient, the Haitian Government is willing and anxious to add to them at the suggestion of the Department of State.

I have, etc.,

H. W. FURNISS.

ASSAULT ON AN AMERICAN INSPECTOR OF CUSTOMS BY A DOMINICAN CUSTOMS OFFICIAL.

File No. 839.51/743.

The American Minister to the Secretary of State.

[Telegram—Extract.]

AMERICAN LEGATION,
Santo Domingo, July 9, 1911.

Reports that an American inspector of customs at Puerta Plata, while performing his duties, was assaulted by a Dominican customs official; that he made representations to the Dominican foreign office and demanded suspension from office and punishment of this official and a guaranty for the future protection of the receivership employees. He has been assured by the minister for foreign affairs that proper measures have been taken; that the offender has been suspended from duty and will be tried for the offense.

RUSSELL.

File No. 839.51/747.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 12, 1911.

Instructs him to renew, if necessary, his demands for the punishment and dismissal of the Dominican official and for the future protection of the American customs officials. Further instructs him to point out to the Dominican Government its obligation under the treaty to afford full protection.

KNOX.

File No. 839.51/754.

The American Minister to the Secretary of State.

No. 71.] AMERICAN LEGATION,
Santo Domingo, July 19, 1911.

SIR: Referring to my cable on the subject, I have the honor to report that the Dominican Government has, I think, given entire satisfaction in the case of the assault by a Dominican official of the customhouse at Puerto Plata on an American inspector in the employment of the general receivership of customs.

The offender, after suspension from office, was arrested and tried, and has been sentenced to six days' imprisonment, a fine of $10, and to pay the costs of the trial.

I have, etc.,

WILLIAM W. RUSSELL.

ASSAULT ON THE COMMANDING OFFICER OF U. S. S. "CHESTER" BY A DOMINICAN OFFICER.

File No. 339.112C42/5.

The American Minister to the Secretary of State.

[Extract.]

No. 51.] AMERICAN LEGATION,
Santo Domingo, May 5, 1911.

Referring to the cables on the subject,[1] I now have the honor to inclose you herewith copies and translations of all the correspondence relating to the incident that took place on the 16th of April between the guard of the barracks in this city and the commanding officer of the U. S. S. *Chester*.

The Spanish word "amonestados" employed in the note from the minister for foreign affairs means "reprimanded" or "warned of doing something wrong and intimation not to repeat."

WILLIAM W. RUSSELL.

[Inclosure 1.]

The Commanding Officer of U. S. S. "Chester" to the American Minister.

U. S. S. "CHESTER,"
Santo Domingo City, April 17, 1911.

Sir: The following facts regarding an insult to my uniform are brought to your attention with the request that, as our diplomatic representative to the Republic of Santo Domingo, you take steps to secure apologies from the officials concerned.

1. On the evening of April 16, 1911, about 8.30 p. m., while returning to my ship, I passed a barracks near the water front. Seeing a guard and officer, I inquired as to the name of the building. The lieutenant grasped my arm and forced me toward the street, indicating that I was to leave. I pointed to my uniform and shoulder straps, and stated my position to be that of the captain of the American man-of-war. This produced no effect and he ordered the guard to send me away. The guard grabbed me by the arms and hustled me down the street until, by persistently demanding to see the commandante, I was permitted to do so. I found him to be in civilian's clothes, and that he had been quietly sitting and watching the spectacle at the entrance to the building. I was accused of trying to enter the building, which was not true. The conduct of the men that were handling me indicated that they were amused at the chance they had, and that they were acting under an approving superior. There was light enough, as the moon was up, to distinguish my uniform, as I distinguished theirs.

2. Upon appealing to the commandante I obtained no redress whatever. The commandante and the lieutenant should apologize to me in the presence of the guard that was on duty, which guard should present arms during the ceremony. The men that put their hands on me should be put in irons for 10 days. The commandante, in addition to the apology in front of the barracks where the affair took place, should be required to call on board my ship, should be relieved of his command, and the entire command reviewed by me and my officers.

3. There were some civilian spectators to my affair. One lad that spoke English followed me half way to my boat.

4. I have been told that the soldiers are insulting my men. It is needless to invite your attention to the dangers of such a condition of affairs to the peace of this community, and the Government should use most stringent measures to see that the United States uniform is respected.

Very respectfully,

BENTON C. DECKER,
Commander, U. S. Navy, Commanding.

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[1] Not printed.

[Inclosure 2.]

The Minister for Foreign Affairs to the American Minister.

[Translation.]

OFFICE OF THE SECRETARY OF STATE FOR FOREIGN AFFAIRS.
Book B. No. 116. *Santo Domingo, April 19, 1911.*

Mr. MINISTER: Referring to the regrettable incident that took place at the entrance to the fortress on the night of the 16th instant, and about which we have had several interviews, I quote to you from a communication to this ministry from the minister of war:

I send you herewith, to be returned, the communication which the military commandant of the fortress here addressed to this ministry in regard to the incident that took place at the entrance to the fortress, between soldiers of the watch on duty at the said fortress, and the commander of the American man-of-war *Chester*. As may be seen from the satisfactory explanations given in this matter by the military commandant, it is clear that our military officers could not have had the remotest idea of provoking any friction which might belie the good and cordial relations which exist between the two Governments. In the hope that the explanations given by the military commandant of the fortress here will definitely put an end to the displeasure on the part of Commander B. C. Decker, to which, under other circumstances, the unforeseen incident that took place at the entrance to the fortress on the night of the 16th instant might have given rise, this ministry expresses to you its highest consideration.

The official letter from the military commandant of this fortress, to which the above-quoted communication refers, states, among other things, as essential points, that neither he nor his officers were acquainted with the commander of the American cruiser *Chester;* that although the above-mentioned commander made known his rank, it was thought he was some stranger, who, making use of a military uniform, was trying to enter the said fortress for some unknown purpose; all the more so as the commander of the *Chester* persisted in his intention of entering.

The military commandant of this fortress concludes his report with a statement to the effect that he would be very glad to have the commander of the *Chester* informed that, during those hours when entrance to the fortress is not forbidden, he would take especial pleasure in showing it to him, as well as in giving him in person the preceding explanations.

I take, etc.,

FEDCO VELÁZQUEZ.

[Inclosure 3.]

The American Minister to the Minister for Foreign Affairs.

No. 41.] AMERICAN LEGATION,
Santo Domingo, April 25, 1911.

Mr. MINISTER: I have the honor to refer to a communication from your excellency's predecessor, No. 116 of April 19, in regard to the incident at the military barracks on the night of the 16th instant between the guard of said barracks and the commanding officer of the United States cruiser *Chester*. My Government has been made acquainted with all of the facts in the case, and of the contents of the communication of his excellency the minister of war, and feels that the harsh and violent treatment of an officer of the high rank of Commander Decker, who was in the harbor with his ship on such a friendly mission, was entirely unnecessary and uncalled for. The commandant of the barracks admits that Capt. Decker made him understand who he was, but takes the rather strange position that he did not believe him, but thought he was some stranger disguised in the uniform of a naval officer of the United States who was attempting to enter the barracks.

In view of all the circumstances in the case, and of the absolute absence, on the part of Capt. Decker, of any evil intent, my Government expects an assurance from the Dominican Government that the commissioned officers directly connected with this assault be punished.

I take this occasion to renew to your excellency the assurance of my most distinguished consideration.

WILLIAM W. RUSSELL.

[Inclosure 4.]

The Minister for Foreign Affairs to the American Minister.

[Translation.]

OFFICE OF THE SECRETARY OF STATE FOR FOREIGN AFFAIRS,
Santo Domingo, May 3, 1911.

Book B. No. 132.

Mr. MINISTER: I have the honor to acknowledge the receipt of your excellency's courteous communication No. 41 of April 25, last.

As my colleague of the department of war and marine was informed of the contents of your excellency's courteous note above referred to, I quote as follows to your excellency from said minister's answer to me: He says:

Referring to the particulars in your communication of the 29th of last month, Book A, No. 584, I take the occasion to inform you that the officers directly concerned with the disagreeable incident at the entrance to the fortress on the night of the 16th of last month have been reprimanded.

I hope that the foregoing will sufficiently satisfy your excellency, and I am pleased to embrace this opportunity etc.,

J. M. CABRAL Y BÁEZ.

File No. 339.112C42/5.

The Secretary of State to the Secretary of the Navy.

DEPARTMENT OF STATE,
Washington, May 26, 1911.

SIR: Referring to previous correspondence, I have the honor to inclose for your information a copy of a dispatch from the American minister to the Dominican Republic, forwarding copies of all the correspondence relating to the incident that took place on April 26 [sic] between the commanding officer of the U. S. S. *Chester* and the guard of the barracks in the city of Santo Domingo.

This Department thinks that the incident may now be considered as closed.

I have, etc.,

P. C. KNOX.

File No. 339.112C42/6.

The Secretary of State to the American Minister.

No. 52.] DEPARTMENT OF STATE,
Washington, June 14, 1911.

SIR: Referring to previous correspondence on the subject, I inclose for your information and guidance a copy of a letter from the Secretary of the Navy[1] in which he states that his Department concurs in the opinion of this Department that the incident growing out of the rude behavior of the guard of the barracks in the city of Santo Domingo to the commanding officer of the U. S. S. *Chester* may now be considered as closed.

I am, etc.,

P. C. KKOX.

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[1] Not printed.

REVOLUTIONARY MOVEMENTS.

File No. 839.00/326C.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 16, 1911.

Instructs the legation to inform the Dominican Government that the Department has reasons to believe that ex-President Morales and about 70 other Dominican exiles are about to institute a revolutionary movement against the Dominican Republic, and to ask that Government to take appropriate measures. The Dominican Government should be informed by the legation that in view of the interests of the creditors of the Dominican Republic, no interference with the present system of customs administration nor any attempt to set aside or change the present plan of adjustment can be sanctioned or permitted by the Government of the United States. The Dominican Government is expected to take all necessary steps for the prevention of any interference or changes of this nature.

WILSON.

File No. 839.00/327.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, February 19, 1911.

Communicates confidential information received from the Dominican Government which states that Carlos Morales has obtained probably not more than thirty thousand dollars, having been assisted by some sugar interests in Porto Rico; that Morales has been to Cuba for a conference with Gumersindo Rivas, one of the adherents of Castro, ex-President of Venezuela, and that Morales has been negotiating for arms and munitions, having offered to Rivas, in exchange for his assistance, a base of operation in Santo Domingo. Morales relies upon obtaining a ship formerly of the British navy. He plans to sail from Bermuda or Trinidad for the east coast of the Dominican Republic. Morales is reported to be in New York at present on this revolutionary scheme. He has no prestige in the country and no confidence is placed in him by the most important people inside and outside the Republic.

RUSSELL.

File No. 839.00/357a.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 21, 1911.

Informs him that Morales left New York on the S. S. *Parima*, March 19, 1911, for West Indian ports via St. Thomas, and that instructions have been sent to the consul at St. Thomas to keep the legation informed.

WILSON.

File No. 839.00/375.

The Acting Secretary of State to the British Ambassador.

No. 1140.] DEPARTMENT OF STATE,
Washington, April 26, 1911.

EXCELLENCY: Referring to previous correspondence relative to the rumored efforts of ex-President Carlos Morales to conduct a revolution against the present Dominican Government, I have the honor to inform your excellency that the acting governor of Porto Rico reports by telegraph, under date of April 24, as follows:

Referring to telegram from your office (Office of the Secretary of War), of 21st instant, United States marshal last night arrested Gens. Morales, Jiménez, and Torribio, on a charge of violation of neutrality law, supported by testimony and affidavits of witnesses and seized documents; bail fixed at $7,500 each; as yet unable to furnish. Correspondence seized indicates plan to use twin-screw three-mast vessel now at Somerset, Bermuda, furnished by person signing himself "Heney," go to Inapua Island and meet schooner with arms and ammunition, the latter now stored in place referred to as "the Canadian arsenal," and attack Puerto Plata. Correspondence indicates Capt. James C. Marmion, 181 De Kalb Avenue, Brooklyn, N. Y.; Capt. John H. Sheridan, Bennett Building, 99 Nassau Street, New York City; Eugenio Deschamps, 225 West One hundred and twenty-third Street, New York City, connected with arrangements for securing and delivering munitions and vessel. It may be well to watch movements of persons named.

This Department would be glad if the above information could be transmitted, in confidence, to the proper authority at Bermuda with a view to ascertaining its correctness and to taking appropriate action.

I have, etc.,

HUNTINGTON WILSON.

File No. 839.00/393.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, June 5, 1911.

The legation has been requested by the minister for foreign affairs to convey to the Government of the United States the sincere thanks and appreciation of the Government of the Dominican Republic for taking prompt and effective measures in frustrating the attempts to start a revolutionary movement in the Dominican Republic.

RUSSELL.

File No. 839.00/407.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, November 22, 1911.

I am informed by the Dominican minister for foreign affairs that an expedition is now being prepared by Horatio Vásquez from St. Thomas. The minister for foreign affairs requests that instructions be issued to the American consul at St. Thomas to endeavor to pre-

vent the expedition setting forth from that place. Señor Velázquez stated yesterday morning that it would be useful to the Dominican Government if an American war ship were at Santo Domingo. Leonte Vásquez, brother of Horatio, and Dominican minister at Paris, was arrested yesterday morning in this city. The city is quiet.

ENDICOTT.

File No. 839.00/407.

The Secretary of State to the Danish Minister.

DEPARTMENT OF STATE,
Washington, November 23, 1911.

MY DEAR MR. MINISTER: The Department is in receipt of a telegram from the American Legation at Santo Domingo City to the effect that the minister for foreign affairs informs the American chargé d'affaires that an expedition is now being prepared by Horatio Vásquez from St. Thomas. The minister for foreign affairs requests that instructions be issued to the American consul at St. Thomas to endeavor to prevent the expedition setting forth from that place.

I have the honor to request that you be kind enough to transmit this information to your Government.

I am, etc.,

P. C. KNOX.

File No. 839.00/414.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, November 25, 1911.

Throughout all the Dominican Republic quiet continues. Members of congress are now gathering to meet on November 30, in order to elect a provisional President. It is expected that disturbances or something worse will take place then. The prospect of the Horatio Vásquez expedition from St. Thomas is alarming the Dominican Government, which is drafting all possible recruits.

ENDICOTT.

File No. 839.00/444.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, December 11, 1911.

Cruisers *North Carolina* and *Washington* left on the 8th instant at midnight. I am informed by the minister for foreign affairs that Morales has made a landing and is in hiding in the neighborhood of Pedro Macoris and that yesterday an expedition under Desiderio Arias left Nipe, Cuba, presumably for Monte Christi. The gunboat *Wheeling* is here.

RUSSELL.

File No. 839.00/477.

[Extract.]

AMERICAN LEGATION,
Santo Domingo, December 23, 1911.

SIR: I have the honor to inform you that the Morales expedition that landed in the east from Porto Rico has met with dismal failure.

Morales himself was brought here yesterday, and is now in the fortress, awaiting, according to the Government's statement, trial by the courts. Mauricio Jiménez is also in the fortress. Nemesio Guzmán was killed in an encounter with the Government troops. About a dozen or fifteen more, Dominicans and Porto Ricans, captured with the party, are also prisoners. This accounts for all the chiefs of the projected Morales revolution of last spring from Porto Rico, who were arrested in San Juan, with the exception of Zenón Torribio, and he lately arrived at Puerto Plata on a French steamer, but was not allowed to land—he is supposed to be somewhere in Haiti.

WILLIAM W. RUSSELL.

File No. 839.00/470.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, December 29, 1911.

Zenón Torribio is reported to have landed in the Dominican Republic via Haiti with a revolutionary force of Dominicans and Haitians, and to be receiving aid from the Haitian authorities. A Dominican gunboat has been dispatched to Dajabón with a strong force. Torribio was one of the Morales group and is the only one who escaped capture or death at San Juan last spring.

RUSSELL.

ASSASSINATION OF THE PRESIDENT, DON RAMÓN CÁCERES, AND ASSUMPTION OF THE OFFICE BY DON ELADIO VICTORIA AS PROVISIONAL PRESIDENT.

File No. 839.00/3.

The American Chargé d'Affaires to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Santo Domingo, November 20, 1911.

President Cáceres shot fatally this afternoon.

ENDICOTT.

File No. 839.001/3.

The President of the United States to Madame Cáceres.

[Telegram.]

THE WHITE HOUSE,
Washington, November 20, 1911.

Please accept my heartfelt sympathies in your great affliction.

WM. H. TAFT.

File No. 839.001/3.

The Secretary of State to the American Chargé d'Affaires.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 20, 1911—1 p. m.

Appropriately express to the foreign office the sincere sympathy of the Government of the United States for the Dominican people on account of the calamity which has befallen them. Report fully by cable.

KNOX.

File No. 839.001/5½.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, November 20, 1911—10 p. m.

Mr. Endicott reports that the funeral of President Cáceres took place on this date attended by all the Government ministers, the diplomatic corps and military and civil authorities. He says the city continues quiet and that Velásquez states that the Government has the situation under perfect control. Two decrees were proclaimed on this date by the Government ministers assuming charge of Executive power under the constitution, the first decreeing mourning for nine days, and the second convoking Congress on the 30th instant to name provisional President pending the regular elections. The murderer of the President, Luis Tejera, was captured and shot. An accessory, Gen. Pimentel, was also killed, and many arrests have been made. The minister of fomento, who is a brother of Luis Tejera, has been removed from the Cabinet.

File No. 839.001/13.

The American Minister to the Secretary of State.

[Extract.]

AMERICAN LEGATION,
No. 108.] *Santo Domingo, December 11, 1911.*

SIR: I have the honor to inform you that on the 6th instant Mr. Eladio Victoria took the oath of office as Provisional President of the Republic. The ceremonies were extremely simple and took place in the Senate Chamber before both Houses of the National Assembly. The diplomatic and consular corps were present by invitation.

I have, etc.,

WILLIAM W. RUSSELL.

ECUADOR.

MESSAGE OF THE PRESIDENT, GEN. ELOY ALFARO, TO THE CONGRESS, AUGUST 10, 1911.

File No. 822.032/5.

[Translation of the passage dealing with the inability of the Government to comply with the suggestion of the mediating powers regarding reference to The Hague of the boundary dispute with Perú. There is no other allusion to the United States in the message.]

Our international relations have been extended and are maintained on a footing of most cordial friendship, excepting with Peru, from whom we are still kept aloof by frontier controversies.

His Majesty, King Alfonso XIII, declined the task of arbitrator in this controversy, as soon as he perceived that the award would plunge the two litigants into war. So noble and high minded an attitude was becoming to the illustrious Spanish Sovereign and eloquently showed his interest for the maintenance of peace among the Republics, daughters of heroic Spain. On the 25th of November, of last year, his excellency, Sr. García Prieto, His Catholic Majesty's minister of state, was pleased to communicate the said inhibition to our chancellor and the communication was received with much gratitude by the entire Ecuadorian people.

Arbitration having thus come to an end, the mediating powers, always desiring a happy and peaceful solution of the Ecuadorian-Peruvian controversy, suggested that our frontier dispute be submitted to the Permanent Tribunal at The Hague. But the Government of Ecuador, although duly appreciative of the suggestion of the medating powers, could not accept it, because there was question of a vital national interest, namely, that of our sovereignty over two-thirds of our territory. It based its refusal on the principles which, in this same respect, were upheld by the delegates of North America, Brazil, and other nations, at the second Peace Conference at The Hague; and which exclude from arbitration such questions as, in the judgment of any one of the parties interested, affect the vital interests of the nation, its honor and its sovereignty.

The Government of the United States of Venezuela, for the purpose of celebrating the centennial of its political emancipation, invited the five Republics liberated by Bolivar to a congress to agree on a basis for a union of the said States. As was natural, the Government of Ecuador accepted this brotherly invitation, and in conformity with the desires of the Venezuelan chancellery, our delegates were furnished with plenary powers in order to reach a definite and honorable settlement with the Republic of Peru, within the bosom of that assembly. Unfortunately, as the minister for foreign affairs will show you in detail, the Peruvian plenipotentiaries emphatically declared that their country would accept no settlement of any kind with Ecuador and that the union must be built up on the basis of absolute arbitration for every kind of controversies. In the face of such declarations, the Ecuadorian delegation had to present the negative answer which the minister for foreign affairs will lay before you and which has been communicated to friendly nations for their information.

I must advise you that Peru handed in this decision only after all the conciliatory methods proposed by the delegations of Bolivia, Colombia, Ecuador, and Venezuela had been exhausted, all of which agreed in eliminating from the projected arbitration disputes about frontiers, present and future, in so far as these might constitute vital national interests. Peru rejected every form of conciliation and the Bolivian union, as had been foreseen, was not realized.

However, what happened at the international congress held in Caracas has placed on evidence the good faith with which Ecuador is proceeding, as well as her desires for concord, and the sentiments of brotherliness and Americanism by which it is inspired. As a result some nations have changed their judgment of us and we have gained immensely in the esteem of the world.

The Ecuadorian-Peruvian question is therefore still pending, and constitutes the most difficult problem of our policy as well as a constant menace to the sovereignity of Ecuador; the more so because Peru refuses to restrain itself even at the behest of the mediating powers, thereby forcing us, at every step, to a decision which shall once for all put an end to this overwhelming and annoying controversy. It is time that you should handle this serious matter earnestly and effectively and point out to the Executive the conduct he must follow.

BOUNDARY DISPUTE BETWEEN ECUADOR AND PERU.—MEDIATION OF THE UNITED STATES, ARGENTINA AND BRAZIL.[1]

File No. 722.2315/531.

The Peruvian Minister for Foreign Affairs to the American Minister.

[Translation.]

No. 1.] FOREIGN OFFICE,
Lima, January 2, 1911.

Mr. MINISTER: I have had the honor to receive your esteemed communication of the 27th of the past month[2] in which your excellency makes known to me that the Governments of the United States of America, of the Argentine Republic, and of Brazil counsel the Governments of Peru and Ecuador to submit to the Tribunal of Arbitration at The Hague the entire boundary question pending between these countries.

In reply I have the honor to say to your excellency that my Government appreciates at its great value the proposal of the mediating powers and trusting fully in the force of the rights of Peru, agrees to submit to the Tribunal of Arbitration of The Hague the entire boundary question pending between Peru and Ecuador.

Fulfilling the pleasant duty of expressing once more the sincere gratitude of my Government for the friendly initiative of the mediating States,

I improve this occasion, etc.,

EM. ALTHAUS.

File No. 722.2315/547.

The Ecuadorian Minister for Foreign Affairs to the American Minister.

[Translation.]

FOREIGN OFFICE,
Quito, January 16, 1911.

EXCELLENCY: It was only in the last mail that I had the honor to receive the note announced by his excellency the Argentine minister; a note which corroborated the invitation of the mediating powers to

[1] Continued from Foreign Relations, 1910, pp. 438–507.
[2] See Foreign Relations, 1910, p. 506.

Ecuador and Peru to submit their boundary disputes to The Hague Tribunal. This will explain to your excellency my delay in answering the note which you were pleased to direct to me with the same object on the 27th of last month.

The solicitude with which the mediating powers have striven to remove the obstacles which were in the way of the peace of both countries could not be more praiseworthy or more deserving of gratitude; and the history of America will register in its best pages the great benefit of the mediation, so generously offered at the moment when a disastrous war between two sister peoples was about to commence. Out of gratitude for this offer, my Government wishes that it were able to accept the friendly and benevolent suggestions of those powers, so that all the glory of having cemented the peace between these two nations should belong to them.

But unfortunately our dispute with Peru does not rest upon a mere demarcation or settling of frontier lines, but also upon the dominion and sovereignty of very vast territories; upon the very life of Ecuador, which, without the zone which Peru disputes now with us, would remain dead for the future, as even the Peruvian minister, Dr. García, himself confessed in his report before the congress of his country in 1890. The question of boundaries for us is a question of existence, and it can not, therefore, be included in article 38 of The Hague Convention.

In the said article it is stated that arbitration is the most just and efficacious means of finding a solution for legal controversies, especially those relative to the interpretation or application of international conventions. But what are these merely legal questions which should be solved before the above-mentioned international tribunal? In order to answer this we have but to consult the acts of the Second International Peace Conference, the true source of interpretation of the resolutions made by the congress referred to. There we find the genuine explanation of the doctrines held by the nations represented at the conference above-mentioned, and we see, specifically stated, the cases to which article 38 of the convention refers. And in order to exclude every doubt, I will permit myself to make special mention of the doctrines sustained by the delegation of the United States of America, whose proposition is to be found in Appendix 37, page 899 of the second volume of acts, official edition of 1907.

Article I of the said proposition textually states:

> Controversies of a legal nature relative to the interpretation of existing treaties * * * and which have not been able to be settled by diplomatic channels, shall be submitted to arbitration: *Provided, however,* That the vital interests, the independence, and the honor of neither State shall be in question, and provided that the interests of other States strangers to the dispute shall not be affected.

This article, so wisely conceived, is but the exact and faithful expression of the doctrine of the principal and most renowned jurists; a doctrine which has been put into practice by all the nations that have celebrated treaties of general arbitration. We may say that there has been an understanding, almost unanimous, about the doctrine sustained by the North American delegation in the Second Hague Conference; and consequently my Government could not in any form submit our dispute with Peru to the Permanent Court of Arbitration, since it refers to the dominion and sovereignty of

Ecuador over not less than two-thirds of her territory. And please note that the consideration of the nature of the controversy concerns us exclusively. The delegation of the United States of America—founded, of course, upon law—proclaim this very doctrine in the following terms, as can be seen in Appendix 37, already referred to:

> Each one of the signatory powers has the right to determine whether the difficulty which has arisen affects its vital interests, its independence or its honor; and consequently if it is of the same nature as those that are excepted from arbitration by the preceding article * * * etc.

And this declaration is corroborated by those of other nations which participated in the same international conference. So that, in the matter which is now in hand, Ecuador is the only one called upon to decide whether the dispute with Peru affects or does not affect her vital interests, the national honor and the very sovereignty of the State.

There is another great difficulty which prevents my Government from accepting the kindly suggestions of the mediating powers, namely, the solemn treaties which bind Ecuador with Colombia. Without taking into consideration article 26 of the treaty of July 9, 1856, renewed and ratified in the treaty of the 10th of August, 1905, we have the treaty of May, 1910, a convention according to which the defense of the Amazon territory must be made jointly by Ecuador and Colombia, forming a single party. This treaty makes it impossible for either of the two powers to proceed separately and without the agreement of the other. If, therefore, we should accept the friendly counsel of the mediators without the express acquiescence of Colombia we should break, your excellency, a solemn international treaty, which would be contrary to justice, to national honor, and to the sincere friendship which unites us to our sister to the North. If the arbitration of The Hague were possible we could not therefore go to that tribunal except jointly with Colombia.

These, your excellency, are the very strong reasons which my Government has the regret to express to the mediating powers, and on account of which it does not believe that it is in a position to accept the kindly invitation which it has received, although it gratefully acknowledges the generosity and noble zeal with which these powers have proceeded from the time that our conflict with Peru commenced until to-day, when the fears of a war between the two countries are entirely removed. At present nobody in Ecuador, Mr. Minister, thinks of confiding to arms the triumph of our rights; and Spanish arbitration having been eliminated, and the excitement of the Republic of Peru being calmed, I believe that there will not be great difficulties placed in the way of entering into friendly and direct arrangements. This would be the most decorous and appropriate means for sister nations to terminate definitely their boundary dispute; and an equitable and noble transaction, celebrated under the auspices of friendly powers, would be the most beautiful example which we could give to our continent; to terminate the differences as in a family, without other judicial procedure than the good offices of our illustrious and great friends, would be to lay new and firmer foundations for American concord, and to present ourselves before the world as peoples worthy of the civilization to which we have attained.

And if, in discussing this honorable compromise, difficulties should prevent its satisfactory conclusion, we then might have recourse to amiables compositeurs, charged with splitting the difference on the basis of equity; and my Government, always animated by the most earnest spirit of conciliation, would designate for the friendly duties referred to Governments or political personages whom Peru would accept with applause. I repeat, your excellency, that the Ecuadorian people and their Government desire only peace with their neighbors and will lend themselves to any arrangement based upon equity and honor.

I seize, etc.,

J. PERALTA.

File No. 722.2315/526.

The Chilean Chargé d'Affaires to the Secretary of State.

[Aide mémoire.]

CHILEAN LEGATION,
Washington, January 17, 1911.

The chargé d'affaires of Chile has received telegraphic instructions from his Government to transmit to the Secretary of State the following telegram received from Santiago on January 16:

The minister of Chile in Quito reports that the minister for foreign affairs of Ecuador does not accept the proposition of taking the case to The Hague Court, because the question at issue involves vital interests which affect the sovereignty of his country in a manner that only Ecuador can appreciate. Besides, Ecuador does not purpose to fall again into the same error that she committed in 1887 under which she submitted to arbitration two-thirds of her territory. The Ecuadorian Government adds that the best solution of the controversy is a compromise by direct settlement, by which, through mutual concessions, the disputed zone that is afterwards to be divided should be determined. It states further that these are the terms in which the Government replies to the note of the mediators.

The minister for foreign affairs of Chile has answered, through the medium of our representative, as follows:

We regret the resistance of Ecuador to resorting to The Hague, and we find that there are not sufficient grounds for the reasons adduced for following such a course. The argument referring to vital interests is not applicable since the case is not that of a compulsory arbitration, but an arbitration freely consented to. If in 1887 it consented to submitting the question to arbitration by Spain, there is no reason why it should not, at this time, submit the question to a tribunal which offers every guaranty of impartiality, the more so if it be considered that the refusal of Ecuador to abide by the decision of the Spanish Government is what provoked the conflict. It is not necessary for Ecuador to have delegates at The Hague Tribunal, since by virtue of articles 47 and 51 of The Hague Convention for the settlement of international disputes, the parties may freely appoint national or foreign arbitrators. As to the determination which is the object of this litigation, it could be made in the same manner as it was made before the Spanish Government. It is wise to insist upon the proviso that the arbitrator should be invested with the powers of an "amiable compositeur" thus facilitating an equitable solution and the division of the disputed territory in the best possible manner. We can not see why Ecuador should act in conjunction with Colombia in settling the boundary question with Peru; it did not proceed in that wise at the time of the arbitration by the King of Spain. The direct settlement proposed by Ecuador is not feasible on account of its exigencies, and because according to its affirmations it would have to act in accord with Colombia, which would render the solution impossible.

We trust that Ecuador will accept the proposal of arbitration, because we do not see another way of settling the difficulty without altering the peace of the continent. The Government of Chile supports the action of the mediators because of the good relations that bind us to them, which we desire to maintain, and also by reason of the just purpose for which they unselfishly work.

Our legation in Washington is informed of the purposes stated.

File No. 722.2315/543.

The Colombian Minister for Foreign Affairs to the American Chargé d'Affaires.

[Identical with notes transmitted on the same day to the Brazilian and Argentine chargés d'affaires.]

[Translation.]

FOREIGN OFFICE,
Bogotá, January 17, 1911.

Mr. CHARGÉ D'AFFAIRES: Animated by sentiments of Pan-Americanism and desiring that peace be firmly maintained in all of our continent, your Government and that of the United States of Brazil and of the Argentine Republic offered their mediation to the Republics of Ecuador and Peru for the purpose of facilitating a just solution of the frontier dispute which exists between these two States. At that time the question had been submitted by Ecuador and Peru to the arbitration of His Majesty the King of Spain, who later manifested his wish to withdraw from pronouncing the decision; and at this juncture the mediating powers have proposed to the Governments of Ecuador and Peru to submit the dispute to the decision of the Permanent Court of Arbitration at The Hague.

The Government of the Republic of Colombia has always manifested its most formal reserve regarding a decision which at the instigation of any State might be declared concerning territory which Colombia declares as her own and over which she maintains and is resolved to maintain all her rights of property and sovereignty.

It being the purpose of the mediating powers to obtain results which may permit the satisfactory termination of a situation which has agitated public opinion in the interested countries, I consider it opportune to state to your Government, through the honorable conduct of its representative in Colombia, that my Government thinks that the solution proposed by the mediating powers to the Governments of Ecuador and Peru will not be conducive to the end desired by them.

Certainly arbitration is a praiseworthy means of settling international difficulties provided that it does not compromise or touch the interests of a third State. Colombia can do no less than formulate the most peremptory reservation of her rights whensoever agreements are negotiated regarding territory which she considers and defends as her own. A dispute would be submitted to the Court of Arbitration at The Hague, which compromising the interests of a third State, would leave existing the same difficulties which the mediation proposes to avoid or analogous ones.

The right of Colombia to intervene in this adjustment of frontiers is so clear that it was recognized by Ecuador and Peru in the convention signed in 1894 at Lima by the plenipotentiaries of the three Republics and of which the Peruvuan Congress approved.

On her part, Ecuador, in the treaty concluded with Colombia on November 5, 1904, under which the question of frontiers pending between both Republics was submitted to the arbitration of His Majesty the Emperor of Germany, stated that "the territory of the eastern region, from the course of the river Napo to that of the Caquetá or Yapurá was not included in the arbitration to be submitted by Ecuador and Peru to His Majesty the King of Spain." As is known the difficulties which arose from this decision depend principally upon the absence of an agreement between the interested parties upon the matter submitted to arbitration, the respective engagements not being defined with precision.

Although Colombia sustains her rights on one and the other bank of the Putumayo as far as the Amazon, always animated by the desire of finding a solution of the frontier difficulties with her neighbors, she signed conventions with Peru in 1905 regarding modus vivendi, according to which a provisional zone of occupation in the region of the Putumayo was established, the territory lying to the north or the left bank of the said river appertaining to Colombia. Although these conventions have not been fully developed, they show that no decision can be taken to define the frontiers in this territory omitting or not considering the rights of Colombia.

The foregoing considerations justify the opinion stated by me at the beginning of this note, and I beg you to be good enough to bring it to the knowledge of your Government in order that it (the Government) may appreciate with all exactness the inefficiency of an arbitration or other agreement which does not embrance in its totality the problem of frontiers which was argued before the King of Spain in an incomplete form, since Colombia would see herself obliged to make a reservation of her rights and to continue in defense of them until an equitable and frank agreement with her neighbors could be reached, assuring to all the benefits of a sincere and stable peace.

I am, etc.,

ENRIQUE OLAYA HERRERA.

File No. 722.2315/564a.

The Secretary of State to the Brazilian Embassy.[1]

[Memorandum.]

DEPARTMENT OF STATE,
Washington, April 8, 1911.

The Government of Ecuador having declined the counsel of the mediating powers that the Peru-Ecuador boundary dispute be referred for decision to The Hague, the Governments of Argentina and Brazil doubtless feel, as does the Government of the United States, the necessity of taking some further steps contributory to a final solution of the boundary differences existing, consulting, so far as possible, the respective desires of the Governments of Ecuador and Peru. This necessity has become the more apparent because of the unsettled conditions in the territories in dispute which have

[1] Same to the Argentine legation, and by telegram on same date to the American minister to Argentina, with instructions to repeat it to the American ambassador to Brazil.

given rise to incidents such as that in the vicinity of Chacras and Pocitos and fears of possible aggression as to which both Governments have already made representations to the mediating powers. Regarding this incident the Government of the United States desires to know the opinion of the mediating powers as to whether it would not be well, in view of the foregoing, to recommend to the Governments of Ecuador and Peru that they express their mutual regret at this unfortunate occurrence, taking immediate steps to bring to justice the individuals responsible for the disturbance and proceeding without delay to adjudicate and pay such material damages as shall be found to have been inflicted upon their respective citizens, leaving the amount of such damages to be determined by arbitration in case difficulty is found in reaching an agreement as to such amount.

As to the nature of further steps looking to a solution of the boundary difficulty, the Government of the United States believes that the mediating powers might properly consider the advisability of suggesting to the Governments involved the wisdom of submitting their dispute for final settlement to the decision of amiables compositeurs, the mediating powers being ready, in this event, to tender their good offices toward facilitating the drafting of an equitable compromis acceptable to the two powers interested, which mode of decision closely approximates the arbitration at The Hague, which the mediating powers would have expected to be on a compromis of broad scope admitting every consideration of equity and justice.

It occurs to the Government of the United States that the mediating powers might properly consider the advisability of inviting the Government of Colombia, in view of its claims to a portion of the region in dispute, to participate to a proper extent in further proceedings. Although it would seem that the claims of the Government of Colombia can not be precisely defined until after a settlement between the Governments of Ecuador and Peru, nevertheless, to obviate the possibility of a subsequent controversy between the Government of Colombia on the one hand and either that of Ecuador or of Peru on the other, it would appear wiser to determine all the rights of these three Governments at once.

The Government of Chile has officially informed the Government of the United States that in furtherance of the former counsel of the mediating powers it has most strongly urged upon the Government of Ecuador the reference of the boundary question to The Hague, thus confirming anew its oft asserted sincere disposition to cooperate effectively with the mediating powers. Accordingly, it may seem well to the Governments of Argentina and Brazil, as it does to the Government of the United States, to invite the Government of Chile to make further use of its influence near the Governments of Ecuador and Colombia in favor of the success of whatever steps it may now be decided to take toward a solution of this difficulty. Should even this course fail, it would seem that the point will then have been reached when the mediating powers might suggest some line to be respected as a status quo by the Governments of Colombia, Ecuador, and Peru, until a permanent solution of the boundary dispute satisfactory to all parties should be found. In case of such arrangement and the adoption of the necessary modus

vivendi, the mediating powers could lend their good offices to facilitate the framing, in the event of ultimate arbitration, of an equitable compromis.

The Government of the United States would be happy to learn the views of the Governments of Argentina and Brazil touching the foregoing considerations.

File No. 722.2315/563.

The American Ambassador to Brazil to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Petropolis, April 13, 1911.

Mr. Dudley acknowledges Department's April 8, which was repeated from Buenos Aires, and says he has been informed by the Brazilian minister for foreign affairs that the Department's memorandum which was sent to him by the Brazilian chargé is entirely acceptable to his Government with the exception of the suggested participation of Colombia. The Brazilian minister points out that since the recent secret treaty between Colombia and Ecuador there has been no territory in dispute between these countries, that the division line as determined by the treaty is known to him, and that the execution of the treaty has become an open secret. He proposes, therefore, that the mediators formally ascertain from Colombia and Ecuador the line of division agreed upon, and that thereafter Peru deal separately with them touching the territory claimed by each adversely to her. Mr. Dudley adds that the minister expressed the opinion that tripartite discussion by the three republics would prove interminable and recalled that Brazil could not consistently favor such procedure in view of her insistence with Peru and Bolivia upon settling one at a time her disputes with them regarding identical territory.

NOTE.—At this point the first paragraph of the extract from the Message, read on May 3 to the Congress, of the President of Brazil may be consulted (see Brazil); and that of the President of Argentina, read May 12 (see Argentina).

File No. 722.2315/571.

The Chilean Minister to the Secretary of State.

[Translation.]

No. 12.] CHILEAN LEGATION,
Washington, July 12, 1911.

SIR: Upon taking charge of this legation, I received special instructions from my Government to express to your excellency the gratification with which my Government learned through Mr. Yoacham, at the time Chilean chargé d'affaires, how your excellency appreciated the efforts of the Chilean Government to induce Ecuador to consent to submitting to the Tribunal of The Hague the settlement of the recent controversy with Peru. I may assure your excel-

lency that both by reason of the old friendship binding Chile to Ecuador, and in order to serve the interests of peace on the continent (to which end the policy of the United States is also earnestly directed) my Government will continue to labor resolutely for the purpose of finding a peaceful and satisfactory settlement of such difficulties.

My Government took note with no less satisfaction of the lofty and friendly manifestations of that impartiality and moderation on which your excellency declared the policy of the State Department to be based with regard to the Tacna and Arica question between Chile and Peru. The declaration made by your excellency, also during the incumbency of the chargé d'affaires, to the effect that you hope this question will be settled by the countries concerned without any foreign interference, not only shows the spirit of consideration and friendship with which your excellency is animated toward those two nations, but also involves at the same time a just homage to their sovereignty. All of which contributes, without doubt, effectively toward strengthening the cordial and laudable rapprochement between your excellency's country and the Latin-American nations.

Congratulating myself on the fact that I am able to begin my official relations with your excellency on so agreeable a subject, as it were, I have the honor to express to your excellency the assurances, etc.,

EDW. SUÁREZ.

NOTE.—Between the above and the following dates reference may be had to the Message of July 20 of the President of Colombia (*see* Colombia); of Peru, read July 28 (*see* Peru); and of Ecuador, read August 10 (*see* above, Message of the President to the Congress).

File No. 735.00.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 984.] AMERICAN LEGATION,
Buenos Aires, August 16, 1911.

Sir: I have the honor to transmit herewith the annual report for 1910–11 [1] of the Argentine minister for foreign affairs, Dr. Ernesto Bosch, submitted to Congress a few days ago.

After briefly reviewing the efforts made by the three mediating powers in the Peru-Ecuador dispute, the minister closes his reference to the subject in the following sentence:

> In this condition the efforts of the mediating powers have remained somewhat paralyzed, it being regrettable that they have not been able up to date to accomplish their high purpose. But it is to be hoped that this purpose will soon be accomplished, provided that Peru and Ecuador share the confidence which the mediating powers are especially desirous of inspiring by this friendly action, which is a disinterested service to safeguard their real interests.

I have, etc.

ROBERT WOODS BLISS.

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[1] Not printed.

File No. 722.2315/571

The Acting Secretary of State to the Chilean Minister.

No. 4.] DEPARTMENT OF STATE,
Washington, October 12, 1911.

MR. MINISTER. I take pleasure in acknowledging the receipt of your note of July 12, 1911, and desire to say that the Department has been awaiting the opportunity, which your return to Washington now offers, of communicating its reply directly to you.

You state, in pursuance of special instructions from your Government, that the Government of Chile was gratified to receive an expression of the satisfaction which the Government of the United States felt upon learning through Mr. Yoacham, at the time chargé d'affaires of your legation, of the efforts that were being put forth by Chile, in friendly cooperation with the mediating powers, to the end that the boundary difficulties between Ecuador and Peru might reach a speedy termination. You add that the Government of Chile will continue, because of the long-established bonds of friendship existing between Chile and Ecuador, and because of the desire of Chile to serve the interests of continental peace, to labor in order that these difficulties may find a pacific and satisfactory solution.

It is a matter of equally great pleasure to the Department to learn from you of the favorable reception which was given in Chile to the statement of the Secretary of State that he hoped that Chile and Peru might be able to find a basis for the settlement of the question known as that of Tacna and Arica, consistent with their national honor and interests.

While fully reciprocating the sentiments recorded by you in pointing out the cordial sympathy guiding the relations existing between the United States and Chile, and in sharing the sincere hope that the efforts of this Department and of your legation in the cause of cordial understanding between our respective countries will be effective in promoting the development of even more perfect relations of confidence,

I have, etc.

ALVEY A. ADEE.

REVOLUTION. OVERTHROW OF PRESIDENT ELOY ALFARO. ASSUMPTION OF PRESIDENCY BY EMILIO ESTRADA.

File No. 822.00/149.

The American Minister to the Secretary of State.

[Extract.]

No. 4.] AMERICAN LEGATION,
Quito, August 21, 1911.

SIR: I have the honor to make the following report regarding the recent disorders in Quito.

On August 11, without any previous warning, firing suddenly broke out all over the city. * * * Field guns were brought into the principal streets and discharged, at no one in particular, but with the apparent end in view of intimidating the populace. From the cries of "Viva Estrada!" and "Abajo Alfaro!" it soon became

evident that the whole of the army stationed at Quito had abandoned the President, Gen. Eloy Alfaro, and gone over to President-elect Emilio Estrada. The only body of troops remaining loyal was * * * stationed on the outskirts of the city. After a skirmish in which they lost about 25 dead and wounded this body of troops also went over to the insurgents. * * * Late in the day it was learned that * * * President Alfaro * * * had taken refuge in the Chilean Legation. The whole of the President's Cabinet and Gen. Flavio Alfaro, Estrada's chief opponent [in the January elections], were captured and put in the penitentiary. * * * The Chilean minister prepared a note, which was signed by the Colombian, Chilean, American, and Brazilian ministers and by the British chargé d'affaires, which recited that desiring to avoid further bloodshed and actuated by motives of humanity the undersigned requested Gen. Páez [commanding the troops stationed at Riobamba and Ambato, who had remained loyal to President Eloy Alfaro] to delay his march on Quito until the Government could appoint a commission to treat with him. This note was delivered to Gen. Páez by the secretary of the Colombian Legation. [He assented and] a commission consisting of the Brazilian minister, representing the diplomatic corps, and the provisional minister of the interior, representing the Government, was sent to treat with Gen. Páez, on August 13. They returned to Quito the next day and reported that terms had been agreed on and Gen. Páez was moving his troops back to their original position. * * * The total number of dead and wounded from the disorders of the 11th is estimated to be between 200 and 300, mostly Indians.

Everything is now quiet. The Provisional Government has shown itself able to maintain order.

No. 8. AUGUST 22, 1911.

* * * The resignation of President Alfaro was presented to Congress and promptly accepted by that body. A review of the election of last January was then undertaken, and in due time its results—102,000 votes for Estrada as against 3,000 for Gen. Alfaro—were announced, and Emilio Estrada was duly declared to have been legally and constitutionally elected President of the Republic.

I have, etc.,

EVAN E. YOUNG.

DEATH OF THE PRESIDENT, DON EMILIO ESTRADA.

File No. 822.001/25.

The American Minister to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, December 22, 1911.

I regret to report the death last night of His Excellency Don Emilio Estrada, president of the Republic.

YOUNG.

The President to the Acting President of Ecuador.

[Telegram.]

THE WHITE HOUSE,
Washington, December 22, 1911.

Having learned with deep regret of the death of President Estrada, I beg your excellency to accept the expression of my profound sympathy and that of the Government and people of the United States in the loss which you and the Ecuadorian nation have sustained in the death of a statesman whose lofty and patriotic purposes could not but merit and gain my appreciation. I should be thankful to your excellency if you would be so good as to convey to Madam Estrada the expression of personal sympathy of Mrs. Taft and myself in her bereavement.

WILLIAM H. TAFT.

File No. 822.001/26.

The Acting President of Ecuador to the President.

[Telegram.]

THE NATIONAL PALACE,
Quito, December 25, 1911.

I heartily thank your excellency for your telegram of condolence on the occasion of the death of the President of the Republic. The Government and people of Ecuador are also profoundly grateful for the evidence of your sympathy and that of the American Government and nation. I have the honor of conveying your excellency's sentiments to the widow of the illustrious decedent.

CARLOS FREILE Z.

FRANCE.

EXTRADITION TREATY BETWEEN THE UNITED STATES AND FRANCE.

Signed at Paris January 6, 1909.
Ratification advised by the Senate, with amendment, April 5, 1909.
Ratified by the President May 25, 1911.
Ratified by France June 27, 1911.
Ratifications exchanged at Paris June 27, 1911.
Proclaimed July 26, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty between the United States of America and the French Republic providing for the mutual extradition of fugitives from justice was concluded and signed by their respective plenipotentiaries at Paris on the sixth day of January, one thousand nine hundred and nine, the original of which treaty, being in the English and French 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 France, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a new treaty for the extradition of fugitives from justice, and have appointed for that purpose the following plenipotentiaries:

The President of the United States of America, his excellency Mr. Henry White, ambassador extraordinary and plenipotentiary of the United States of America to the French Republic; and the President of the French Republic, his excellency M. Stephen Pichon, senator, minister for foreign affairs;

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

ARTICLE I.

The Government of the United States and the Government of France mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes or 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 or her 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, assassination, parricide, infanticide and poisoning; manslaughter, when voluntary; assault with intent to commit murder.

2. Rape, abortion, bigamy.

3. Arson.

4. Robbery, burglary, housebreaking or shopbreaking.

5. Forgery; the utterance of forged papers, the forgery or falsification of official acts of Government, of public authority, or of courts of justice, or the utterance of the thing forged or falsified.

6. The counterfeiting, falsifying, or altering of money, whether coin or paper, or of instruments of debt created by national, State, provincial, municipal, or other 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.

7. Fraud or breach of trust by a bailee, banker, agent, factor, executor, administrator, guardian, 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 value of the property misappropriated is not less than two hundred dollars, or one thousand francs.

Embezzlement by public officers or depositaries; embezzlement by persons hired or salaried, to the detriment of their employers.

8. Larceny; obtaining money, valuable securities, or other property by false pretenses, when such act is made criminal by the laws of both countries, and the amount of money of the value of the property fraudulently obtained is not less than two hundred dollars or one thousand francs.

9. Perjury, subornation of perjury.

10. Childstealing, or abduction of a minor under the age of 14 for a boy and of 16 for a girl.

11. Kidnaping of minors or adults.

12. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

13 (*a*) Piracy, by the law of nations.

(*b*) The act by any person, being or not being one of the crew of a vessel, of taking possession of such vessel by fraud or violence.

(*c*) Wrongfully sinking or destroying a vessel at sea.

(*d*) Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the captain or master.

(*e*) Assaults on board a ship on the high seas, with intent to do grievous bodily harm.

14. Crimes and offenses against the laws of both countries for the suppression of slavery and slavetrading.

15. Receiving money, valuable securities or other property knowing the same to have been unlawfully obtained, when such act is made criminal by the laws of both countries and the amount of money

or the value of the property so received is not less than two hundred dollars or one thousand francs.

Extradition shall also be granted for participation or complicity in or attempt to commit any of the crimes or offenses above mentioned when such participation, complicity, or attempt is punishable by the laws of the two countries.

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, they may be made by the consular officers.

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 a crime or offense, a duly authenticated copy of the warrant of arrest in the country where the crime or offense 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 France, 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.

The arrest and detention of a fugitive may be applied for on information, even by telegraph, of the existence of a judgment of conviction or of a warrant of arrest.

In France, the application for arrest and detention shall be addressed to the minister of foreign affairs, who will transmit it to the proper department.

In the United States, the application for arrest and detention shall be addressed to the Secretary of State, who shall deliver a warrant certifying that the application is regularly made and requesting the competent authorities to take action thereon in conformity to statute.

In both countries, in case of urgency, the application for arrest and detention may be addressed directly to the competent magistrate in conformity to the statutes in force.

In both countries, the person provisionally arrested shall be released, unless within forty days from the date of arrest in France, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinbefore prescribed be made as aforesaid by the diplomatic agent of the demanding government or, in his absence, by a consular officer thereof.

ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.

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.

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 shall be final.

ARTICLE VII.

No person surrendered by either of the high contracting parties to the other shall be triable or tried or be punished for any crime or offense committed prior to his extradition, other than the offense for which he was delivered up, nor shall such person be arrested or detained on civil process for a cause accrued before extradition, unless he has been at liberty for one month after having been tried, to leave the country, or, in case of conviction, for one month after having suffered his punishment or having been pardoned.

ARTICLE VIII.

Extradition shall not be granted, in pursuance of the provisions of this convention, if the person claimed has been tried for the same act in the country to which the requisition is addressed, or if legal proceedings or the enforcement of the penalty for the act committed by the person claimed have become barred by limitation, according to the laws of the country to which the requisition is addressed.

ARTICLE IX.

If the person whose extradition may be claimed, pursuant to the stipulations hereof, be actually under prosecution for a crime or offense in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be terminated, and until such criminal shall be set at liberty in due course of law.

ARTICLE X.

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 asked is not bound by treaty, in case of concurrent demands, to give preference to the one earliest in date, in which event that shall be the rule: *And provided*, That no other arrangement is made between the demanding Governments according to which preference may be given either on account of the gravity of the crime committed or for any other reason.

ARTICLE XI.

All articles seized which were 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 if the competent authority of the State applied to orders the delivery thereof, be given up when the extradition takes place. Nevertheless, the right of third parties with regard to the articles aforesaid shall be duly respected.

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 or functionaries 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 or functionaries 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 or functionaries.

ARTICLE XIII.

In the colonies and other possessions of the two high contracting parties the manner of proceeding may be as follows:

The requisition for the surrender of a fugitive criminal who has taken refuge in a colony or foreign possession of either party may be made to the governor or chief authority of such colony or possession by the chief consular officer of the other in such colony or possession; or, if the fugitive has escaped from a colony or foreign possession of the party on whose behalf the requisition is made, by the governor or chief authority of such colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this treaty, by the respective governors or chief authorities, who, however, shall be at liberty either to grant the surrender or refer the matter to their Government.

ARTICLE XIV.

The present treaty shall take effect on the thirtieth day after the date of the exchange of ratifications, and shall not operate retroactively.

On the day on which it takes effect, the conventions of November 9, 1843, February 24, 1845, and February 10, 1858, shall cease to be in force except as to crimes therein enumerated and committed prior to that date.

The ratifications of this treaty shall be exchanged at Paris as soon as possible, and it shall remain in force for a period of six months

after either of the two Governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective plenipotentiaries have signed the above articles both in English and the French languages and have hereunto affixed their seals.

Done in duplicate at Paris, on the 6th January, 1909.

[SEAL] HENRY WHITE.
[SEAL] S. PICHON.

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 Paris, on the twenty-seventh day of June, one thousand nine hundred and eleven:

Now, therefore, be it known that I, William Howard Taft, 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 to be affixed.

Done at the city of Washington this twenty-sixth day of July in the year of our Lord one thousand nine hundred and eleven, [SEAL] and of the independence of the United States of America the one-hundred and thirty-sixth.

WM. H. TAFT.

By the President:
P. C. KNOX, *Secretary of State.*

ARRANGEMENT BETWEEN THE UNITED STATES AND OTHER POWERS RELATIVE TO THE REPRESSION OF THE CIRCULATION OF OBSCENE PUBLICATIONS.

Signed at Paris, May 4, 1910.
Ratification advised by the Senate, January 13, 1911.
Ratified by the President, February 4, 1911.
Ratification of the United States deposited with the Government of the French Republic, March 15, 1911.
Proclaimed, April 13, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an arrangement between the United States of America and Germany, Austria-Hungary, Belgium, Brazil, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Portugal, Russia, and Switzerland relative to the suppression of the circulation of obscene publications, was concluded and signed by their respective plenipotentiaries at Paris, on the fourth day of May, one thousand nine-hundred and ten, the original of which arrangement, being in the French language, is word for word as follows:

[Translation.]

ARRANGEMENT RELATIVE TO THE REPRESSION OF THE CIRCULATION OF OBSCENE PUBLICATIONS.

The Governments of the powers hereinbelow named, equally desirous of facilitating within the scope of their respective legislation the mutual interchange of information with a view to tracing and repressing offences connected with obscene publications, have resolved to conclude an arrangement to that end and have, in consequence, designated their plenipotentiaries who met in conference at Paris from April 18 to May 4, 1910, and agreed on the following provisions:

ARTICLE I.

Each one of the contracting powers undertakes to establish or designate an authority charged with the duty of—

(1) Centralizing all information which may facilitate the tracing and repressing of acts constituting infringements of their municipal law as to obscene writings, drawings, pictures or articles, and the constitutive elements of which bear an international character.

(2) Supplying all information tending to check the importation of publications or articles referred to in the foregoing paragraph and also to insure or expedite their seizure all within the scope of municipal legislation.

(3) Communicating the laws that have already been or may subsequently be enacted in their respective States in regard to the object of the present arrangement.

The contracting Governments shall mutually make known to one another, through the Government of the French Republic, the authority established or designated in accordance with the present article.

ARTICLE II.

The authority designated in Article I shall be empowered to correspond directly with the like service established in each one of the other contracting States.

ARTICLE III.

The authority designated in Article I shall be bound, if there be nothing to the contrary in the municipal law of its country, to communicate bulletins of the sentences passed in the said country to the similar authorities of all the other contracting States in cases of offences coming under Article I.

ARTICLE IV.

Nonsignatory States will be permitted to adhere to the present arrangement. They shall notify their intention to that effect by means of an instrument which shall be deposited in the archives of the Government of the French Republic. The said Government shall send through diplomatic channel a certified copy of the said instrument to each one of the contracting States and shall at the same time apprize them of the date of deposit.

Six months after that date the arrangement will go into effect throughout the territory of the adhering State which will thereby become a contracting State.

ARTICLE V.

The present arrangement shall take effect six months after the date of deposit of the ratifications.

In the event of one of the contracting States denouncing it, the denunciation would only have effect in regard to that State.

The denunciation shall be notified by an instrument which shall be deposited in the archives of the Government of the French Republic. The said Government shall send through the diplomatic channel a certified copy thereof to each one of the contracting States and at the same time apprize them of the date of deposit.

Twelve months after that date the arrangement shall cease to be in force throughout the territory of the denouncing State.

ARTICLE VI.

The present arrangement shall be ratified and the ratifications shall be deposited at Paris as soon as six of the contracting States shall be in position to do so.

A procés verbal of every deposit of ratifications shall be drawn up and a certified copy thereof shall be delivered through the diplomatic channel to each one of the contracting States.

ARTICLE VII.

Should a contracting State wish to enforce the present arrangement in one or more of its colonies, possessions, or consular court districts, it shall notify its intention to that effect by an instrument which shall be deposited in the archives of the Government of the French Republic. The said Government shall send through the diplomatic channel a certified copy to each one of the contracting States and at the same time apprize it of the date of the deposit.

Six months after that date the arrangement shall go into effect in the colonies, possessions, or consular court districts specified in the instrument of notification.

The denunciation of the arrangement by one of the contracting States in behalf of one or more of its colonies, possessions, or consular court districts will be effected in the form and under the conditions set forth in the first paragraph of this article. It will become operative twelve months after the date of the deposit of the instrument of denunciation in the archives of the Government of the French Republic.

ARTICLE VIII.

The present arrangement which will bear date of May 4, 1910, may be signed at Paris until the following 31st of July by the plenipotentiaries of the powers represented at the conference relative to the repression of the circulation of obscene publications.

Done at Paris, the fourth day of May one thousand nine hundred and ten in a single copy of which a certified copy shall be delivered to each one of the signatory powers.

For Germany:	ALBRECHT LEUTZE. CURT JOEL.
For Austria and Hungary:	A. NEMES.
For Austria:	J. EICHHOFF.
For Hungary:	G. LERS.
For Belgium:	JULES LEJEUNE. ISIDORE MAUS.
For Brazil:	J. C. DE SOUZA BANDEIRA.
For Denmark:	C. E. COLD.
For Spain:	OCTAVIO CUARTERO.
For the United States:	A. BAILLY-BLANCHARD.
For France:	R. BÉRENGER.
For Great Britain:	E. W. FARNALL. F. S. BULLOCK. G. A. AITKEN.
For Italy:	J. C. BUZZATTI. GEROLAMO CALVI.
For the Netherlands:	A. DE STUERS. RETHAAN MACARE.
For Portugal:	COUNT DE SOUZA ROZA.
For Russia:	ALEXIS DE BELLEGARDE. WLADIMIR DERUGINSKY.
For Switzerland:	LARDY.

And whereas, the said arrangement has been duly ratified by the Governments of the United States, Germany, Belgium, Spain, France, Great Britain, Italy, and Switzerland, and the ratifications of the said Governments were, as provided for by article 6 of the said arrangement, deposited by their respective plenipotentiaries with the Government of the French Republic on March 15, 1911;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said arrangement 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 testimony 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 thirteenth day of April in the year of our Lord one thousand nine hundred and eleven, [SEAL] and of the Independence of the United States of America the one hundred and thirty-fifth.

WM. H. TAFT.

By the President:
P. C. KNOX,
Secretary of State.

GERMANY.

EXPORT DUTY LEVIED BY GERMANY ON POTASH SALTS.

File No. 20437.

EARLY HISTORY OF THE CASE.

The correspondence begins with a letter from Representative Edwards, of Savannah, Ga., dated July 7, 1909, inquiring in regard to the reported intention of the German Government to levy an export duty of about $20 per ton on concentrated potash salts, in case the German syndicate, which was at the time dissolved, should not be reorganized.[1]

In instruction 207 of July 14, 1909, the Department sent a copy of this letter to the American ambassador at Berlin, with instruction to inquire into the matter.[1]

In dispatch 394 of July 29, 1902,[2] the ambassador reported the situation to be as follows:

> The agreement under which the syndicate was formed expired at midnight on the 30th ultimo, and before all the members could be brought together again certain members signed independent contracts with the representatives of American fertilizer manufacturers, at prices much below those at which potash salts had previously been sold by the syndicate. The question then arose as to whether the proposed new syndicate would take over these contracts, and negotiations to this end have been going on during the whole of the present month. The Government, as the owner of valuable potash mines, and in view of the great sums invested in this industry, is interested in bringing about a reorganization of the syndicate and preventing the demoralization of prices and the closing down of the weak mines which would result from open competition. In order to bring pressure to bear on the groups that were reluctant to enter the new syndicate the Government allowed it to be announced in the semiofficial press and otherwise that in case of failure to reorganize, an export duty on potash salts would be imposed. It has been rumored that an export duty would be levied on the exportations of nonsyndicated mines such as to prevent them from selling in a foreign market at less than the syndicate prices, and the suggestion has also been put forward of a very ingenious tax on production in excess of the amount permitted by the syndicate agreement, which would have the same effect. However, a conditional reorganization of the syndicate for a period of one year was effected on the 24th instant, the condition to be fulfilled before the 1st of October next. This removes any immediate cause for apprehension lest an export duty be imposed at least in the near future.

On November 11, 1909, Mr. Robert S. Bradley wrote to the Assistant Secretary of State as follows:[3]

> I beg to inclose herein a statement relating to the German potash industry as affecting large agricultural and commercial interests in the United States, and to the measure which I am reliably informed the Imperial Government of Germany proposes to adopt in order to prevent Americans from securing the rights and advantages to which they are entitled under contracts made in good faith with German subjects.

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[1] File No. 20437. [2] File No. 20437/1. [3] File No. 20437/2–4.

While it may be the theory of the proposed bill that an export duty on potash, equivalent to the difference between the prices established by the syndicate or the Government and any prices made to a foreign buyer below these prices, will impose no injustice or discrimination against such buyer, inasmuch as all will pay uniform prices, yet in its application such duty would be an absolute discrimination against those Americans who have made the contracts herein alluded to, inasmuch as these buyers would be the only ones who would be obliged to pay any export duty upon potash, as the citizens of no other country hold contracts for the delivery of potash below syndicate prices. I claim that the question of price does not enter into the proposition at all, for any export duty imposed upon an article going to the United States, not imposed upon the same article going to other countries, would constitute a direct discrimination against citizens of this country.

[Inclosure.]

Potash in its natural state and in commercial quantities is found only in Germany, where it exists in very extensive deposits of kali salts, which vary in quality from 8 to 28 per cent of potash (K_2O). * * * The entire sales of German potash salts amount to approximately 150,000,000 marks per year, f which about 20 per cent comes to the United States, being equal in value to about $9,000,000 delivered in this country on the basis of syndicate prices, of which about 85 per cent is used for agricultural purposes and 15 per cent in the manufacture of gunpowder and chemicals.

Since the kali deposits were discovered in Germany about 30 years ago the industry has increased to enormous proportions, now comprising over 50 mines, 3 of which are owned by the Prussian Government and 2 by other principalities of Germany. This expansion is due in large measure to the operations of the "Kali-Syndikat," a powerful organization which markets the entire product, controls the prices in all countries, and allots the division of trade among the mines. By this means prices have been maintained at exorbitant figures, the net prices f. o. b. the mines running from 100 to 200 per cent over the actual cost of production. For example, muriate of potash, which can be produced at $10 per metric ton at the mines, has for years been sold to the largest buyers in the United States at a price equivalent to about $35.35 per metric ton delivered New York, which is equal to about $31.50 per ton f. o. b. the mines.

The great profits accruing from the high prices maintained by this syndicate have led to the development of many new mines until the capacity of the mines now in operation is three times as great as the entire world's demand for potash salts. There are in addition 10 or 12 new mines being developed which will be operating in the near future and will then come under the control of the syndicate. The problem of maintaining prices at such a high level is therefore becoming more and more difficult; but in order to prevent further competition the Prussian Government has recently discontinued the granting of concessions for locating further kali deposits by borings.

The potash syndicate has usually been formed for a period of five years, and the syndicate which has been in operation for nearly five years past will expire by limitation December 31, 1909; but it practically expired at 12 o'clock midnight June 30 last, for the reason that the restriction prohibiting any sales except through the syndicate expired at that time, after which all members were to be allowed to make independent sales unless a new syndicate had been formed by that hour. For several months prior to that date the delegates representing the various mines had been holding frequent meetings, endeavoring to form a new syndicate, but when the appointed hour, midnight, June 30, 1909, arrived they had failed to reach an agreement, and many of the delegates departed supposing that an attempt to form a new syndicate was ended. Every mine was therefore free to make sales on its own account and some exercised this opportunity before the mandate issued by the president of the syndicate, between 1 and 2 a. m. that night, to convene again at 9 a. m. was received by the delegates. During this interim of one to two hours large contracts at prices considerably below those of the syndicate were made by American buyers who were in Berlin watching the situation and awaiting such an opportunity. These contracts, which were made for delivery to the United States over a period of seven years from January 1, 1910, aggregated over $20,000,000. When these sales were reported at 9 o'clock that morning to the syndicate the members were demoralized and the termination of all further negotiations seemed imminent. After days of deliberation it was decided to form a provisional syndicate, sub-

ject to securing the surrender of these contracts, or perfecting some agreement between the contracting parties and the syndicate whereby the advantages obtained by the Americans could be substantially eliminated. Thereafter negotiations between all parties concerned continued intermittently from July 1 to October 1, when, no arrangement for the consummation of this purpose having been reached, a new syndicate was formed, leaving out the Aschersleben and Sollstedt mines, which had made the principal contracts with the American buyers. The Aschersleben mine is controlled in Germany, but Sollstedt was transferred to an American corporation on the night of June 30. During these negotiations the Americans offered to give up for the sake of peace two-thirds of the entire advantage they had gained under their contracts, which provided for the delivery of potash to the United States at a reduction of about 45 per cent under syndicate prices. Not only were these offers declined by the syndicate but not a single mark was ever offered by it for the surrender of these contracts, but merely an arbitrary demand that they must be surrendered or that retaliatory measures would be adopted by the syndicate with the backing and cooperation of the Government itself.

After the formation of the so-called "Fighting Syndicate" on October 1, 1909, and as a result of the same, the Aschersleben and Sollstedt interests entered into contracts with other American buyers at the same prices as those contained in the contracts made on the night of June 30, whereby about 90 per cent of the American potash trade has been secured by these interests, the aggregate amount involved being approximately $35,000,000.

And now comes, in more definite form, the long-talked-of threat of the syndicate, that they will invoke the iron hand of the Government to prevent the Americans from reaping the rewards of their enterprise and from securing any advantages from the contracts which they hold. Though these threats had repeatedly been made by representatives of the syndicate and through the German press, they had not taken definite form until the receipt of a letter dated Berlin, October 20, from a perfectly reliable source intimately associated with the potash industry, from which the following is quoted:

"The first days of the sessions of the new Reichstag the ministerium will put a bill before the house recommending the following steps:

"1. The Government will fix once and for all the prices for potash in Germany and in foreign countries. Sales that will have been made under this fixed price will carry an automatic export duty, in order to make the price equivalent to the price named by the Government.

"2. Every mine will obtain from the Government a certain allotment or quota from the total consumption of the world; for every ton that the mine furnishes over this quota the Government will charge an extra tax, which will be so high that no mine could stand it without serious loss.

"3. Every new mine will have to pay an extra tax for the first five years of its existence.

"The first two measures are strictly made for taking away the advantages from the American buyers and from the Sollstedt and Aschersleben. The third measure will prevent the development of new mines, and the whole bill means that every private impulse and energy must cease and everything has to be conducted for and under the Government."

A production tax, as proposed in the letter above quoted, clause 2, would accomplish the same result as an export duty, for the American contracts specifically stipulate that "any export duty or other governmental charges shall be paid by the buyers."

In a telegram dated November 22, 1909,[1] the Department instructed the embassy to report by telegraph the attitude of the German Government and the probable outcome of a rumored project of the German Government at the instance of the potash syndicate to impose a differential export duty that would upset important contracts and would fall exclusively upon American interests. This telegram contained the following passage:

In seeking from the foreign office information on this subject it may be well to raise the question whether the rumored project would not be to all intents

[1] File No. 20437/13A.

and purposes a discrimination against the United States of a character to embarrass the impending tariff negotiations.

To this instruction Mr. Hitt telegraphed as follows:[1]

November 24. Foreign office states that in view of the dissolution of potash syndicate on June 30 last, Prussian minister of trade and commerce is considering best means to protect the Government's interest in its potash mines but that no conclusion has been reached, and that all newspaper reports concerning an export duty are merely the result of stock exchange manipulations.

Again on December 18, 1909:[2]

Prussian Government yesterday introduced bill in Bundesrat providing for compulsory pooling for 20 years of entire German potash production. Home prices subject to regulation by Bundesrat. Export prices not to be less than highest home price. All contracts not made through syndicate are void, except so much of existing contracts as is to be filled by December 31, 1911.

In confirming this telegram Mr. Hitt in his dispatch 542 of December 18, 1909,[3] stated as follows:

It will be observed that the bill provides for the formation of a syndicate or trust through which alone sales can be made and that this syndicate, subject to supervision on the part of the Bundesrat, will fix prices. Also that export prices shall not be less than the prices in Germany unless special permission to that effect is obtained from the Bundesrat. Provision is made in section 53 for allowing existing contracts to run until December 31, 1911; all sales made in defiance of the law are to subject the seller to fines amounting to four times the syndicate price of the quantity of potash salts in question and imprisonment is also provided for.

Being doubtful as to whether existing contracts, such as I understand the American ones to be, running longer than to December 31, 1911, would be valid at all, I made informal inquiries at the foreign office of the director of the commercial department having charge of American affairs, but he informed me that he could make no official statement and referred me to the text of the law.

On January 8, 1910, the Department sent the following telegraphic instructions to the American embassy relative to the above-mentioned measure:[4]

The proposed imperial measure for control of German potash industry embodies substantial repudiation of 7-year contract obtained by American citizens, by limiting term to two years and taxing quantities to be shipped during this period an amount equal to advantage gained under the contract. Overtures of Americans toward compromise by reducing claims far beyond a reasonable basis are met by refusal of German delegates now here in conference, and negotiations likely to be declared off. Americans must now stand on original contract although willing to meet Germans more than half way. Repudiation by German potash interests is contrary to the sense of business integrity, and the Department can not conceive that governmental sanction of such action as represented by potash interests will be given, since to do so might be construed as evincing an unfriendly intent and operating to perpetrate an international injustice.

On January 10, 1910, the American ambassador replied:[5]

Your January 8. Have unofficially communicated your views regarding potash question to Imperial German Government. Will communicate any information received. It is reported that a protest meeting against the potash bill is to be held to-day in Berlin.

And on January 15, 1910, the ambassador telegraphed as follows:[6]

It is semiofficially stated that the proposed potash law will be amended so as to place no restrictions on prices up to the quota allowed each mine.

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[1] File No. 20437/13A.
[2] File No. 20437/32.
[3] File No. 20437/38.
[4] File No. 20437/40A.
[5] File No. 20437/41.
[6] File No. 20437/46.

This would seem to do away with the restriction that contracts are not binding after two years. There is no question of export tax.

On February 1, 1910, the Department, acting on information contained in a letter from Mr. Robert S. Bradley, of January 28, 1910,[9] telegraphed to the ambassador as follows:[1]

Americans having potash contracts advise that revision to recent proposed potash law provides for small general tax on all potash and heavy tax on shipments above quota allotted by Government. Such heavy tax would render nugatory all advantage obtained in contracts. Proposed revision as represented would be tantamount to repudiation of contracts. Ascertain details and intent of revised measure and report fully.

To the foregoing telegram the ambassador replied by telegram,[2] February 2, 1910, as follows:

Your attention is called to potash contracts, which are said to anticipate the proposed Government charges and to agree to them in advance. Proposed law limiting quota is said to impose tax not on shipment but on mining beyond quota allowed by law. Please advise me after examining American contracts if we can oppose this. Bundesrat has just assented to the proposed law.

Referring to the foregoing, the Department on February 3, 1910,[2] sent the following telegram to the embassy at Berlin:

Potash contracts provide for payment of tax required for governmental revenue. Proposed measure is represented as authorizing collection of heavy tax sufficient to countervail advantages gained, same being payable to Syndicate, not to Government. Contracts are in excess of mining quota now contemplated. In light of this explanation make further inquiry into intent of measure and effect on American contracts and report.

On February 5, 1910, the ambassador replied by telegram[3] to the last-mentioned instruction as follows:

Your February 3. The text of the potash law now before the Reichstag affecting foreign buyers is as follows:

Paragraph 33. The syndicate can permit its members at their request to supply potash salts to third parties. It must permit the same so far as engagements for deliveries have been fixed by contracts closed before December 17, 1909; the request must be accompanied by the contracts.

The amount delivered will be charged to the quota of the member; when it goes beyond this the member has to pay to the syndicate a scale of compensation according to the amount of the excess delivery. The amount of compensation will be fixed by the board of appeal.

In his dispatch 591, of February 5, 1910,[4] the ambassador sent the text of the bill presented to the Reichstag on February 4, 1910, containing the proposed law for the sale of potash salts, together with the reasons therefor. In transmitting the dispatch the ambassador quoted a translation of paragraph 33 of the bill, which affects buyers.

On February 17, 1910, the Department telegraphed to the ambassador as follows:[5]

The attitude of this Government is that potash contracts with Bradley and other Americans are entitled to due recognition in legislation now pending in Reichstag. Should it appear to you that contract rights are endangered by any form of countervailing tax or other charges upon buyers, you will advise this Department without delay. Bearing in mind the Department's telegrams of January 8 and February 1, again represent discreetly the effect of legislation adverse to American interests.

In answer to the foregoing the ambassador telegraphed[6] on February 18, 1910, as follows:

Your February 17. On February 4 I asked foreign office if proposed potash law contemplates tax to fall on foreign purchaser, and if American contracts[1]

[1] File No. 20437/61.
[2] File No. 20437/63.
[3] File No. 20437/67.
[4] File No. 20437/74.
[5] File No. 611 627/67.
[6] File No. 20437/72.

would in any way be affected. No categorical answer has thus far been received, but the bill is unanimously interpreted in Reichstag as involving payments only to and by members of potash syndicate, but no Government charges. Minister of trade and commerce has explained in Reichstag that the idea of an export tax was entertained, but has been abandoned.

In further reply the ambassador in his dispatch 622 of March 3, 1910,[1] reported on the proposed imperial measure, transmitting the reply of the German foreign office to a memorandum and a note from the embassy. The following extract, referring to the assurances of the German Government on the subject of the recognition of the American contracts, is taken from this dispatch:

In reply to the above communications the German foreign office contends that the object of the proposed potash law is to avoid the ruinous competition among the potash-mine owners, the result of which would be that the weaker works would be at the mercy of the strong ones, and that large pecuniary loss would threaten the community, and also that the workmen would suffer. To avoid this, the potash works will have a sales association, which will have the right, subject to the consent of the Bundesrat, to fix prices.

It is further stated that nothing in the proposed law will be detrimental to foreign users of potash salts. The paragraph dealing with the contracts made prior to the passage of the law is so worded that the purchaser under these contracts is not to be affected; the miners who made the contracts must be allowed to sell potash salts at the contract price up to the quota allowed by the sales association; beyond that quota they will be permitted to sell at the contract price, but must pay a compensation to the association as a return for the advantages arising from the increase in output; the compensation, however, is not to be fixed so high that the members can not fulfill their obligations. This compensation, judging from the wording of the law, is a payment to the members of the association and can not be construed to be a Government charge.

On April 9, 1910, the Department sent the following telegram to the ambassador:[2]

Would the German Government welcome efforts of this Department directed to a modification of American claims in potash contracts by which the respective parties would make equal concessions, the basis of such settlement to be arrived at through a committee of international banks? If so, the Department will endeavor to secure the assent of Americans to such arbitration. This in the interest of commercial friendship and interchange, which it is desirable to promote.

On April 14, 1910, the ambassador telegraphed the following reply:[2]

Made inquiry as instructed, but will probably have to wait some time for an answer. There seems to be little probability that the situation will be changed by any legislation this session of the Reichstag, which adjourns on May 4.

On April 19, 1910, the Department, in instruction 366,[1] confirmed the foregoing exchange of telegrams and explained the basis on which the American parties were willing to make a settlement. The ambassador, on April 25, telegraphed the following further reply to the department's telegram of April 9:[3]

Foreign office answers the suggestion of the Department, saying that in view of the uncertainty regarding the principles that will govern the legislation on the subject it is at present hardly possible to find a basis for friendly negotiations between the parties interested. I have strongly expressed the disfavor with which a virtual export duty would be regarded by my Government.

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[1] File No. 20437/78. [2] File No. 20437/79. [3] File No. 20437/80.

On May 2, 1910, the ambassador telegraphed as follows:[1]

Potash committee has passed paragraph concerning governmental charges. Newspapers state this was done after Government's representative had declared that no commercial difficulties would arise with foreign countries. If present bill becomes law it will greatly impair value of existing contracts. German Government denies that there is an export tax, since all overproduction is equally charged.

In pursuance of the information in the above telegram, the Department on May 4, 1910, telegraphed as follows:[1]

If the proposed potash law will greatly impair the value of existing contracts, as stated in your telegram of May 2, you will immediately take up the matter with the minister for foreign affairs and will inform him that in view of the highly injurious effects which such legislation will of necessity have upon large American industries, by reason of its effect upon perfectly legal and binding contracts made by such industries with German miners under and in accordance with German laws in force at the time of the negotiation and conclusion of said contracts, and in view of the further fact that although, as the German Government contends, this may not be in form an export tax, still it appears to the Government of the United States that it is such a tax; in fact, your Government has directed you earnestly to protest against the enactment of the proposed bill into a law, and to state further that, having in mind that all the circumstances of this case have been fully presented to the German Government, the American Government can not but regard the enactment of such a bill as indicating such an unfriendly if not indeed hostile attitude toward this branch of American commerce and industry as may give rise to grave apprehension. You will add that the Government of the United States must observe that it does not perceive in this whole matter any question that might not be properly adjusted by mutual concessions, under some such plan as has already been suggested to the German Government, and you will therefore renew your request that an adequate effort be made so to arrange this troublesome and indeed acute controversy.

ENACTMENT OF THE POTASH LAW AND SUBSEQUENT CORRESPONDENCE.

The potash law[2] was passed on May 10, 1910, and contained the following provisions, to which frequent reference is made in the ensuing correspondence, particularly to section 46:

ARTICLE 26. In case the owner of a potassium salts mine exceed the amount of potassium salts he is entitled to sell, such owner shall pay into the treasury of the Empire a duty on the amounts of such salts sold in excess.

The amount of said duty shall be per double hundredweight [i. e., per 100 kilograms] of pure potassium protoxide (K_2O):

	Marks.
On Groups I and II (carnallite containing 9 to 11 per cent K_2O; and crude salts containing 12 to 15 per cent K_2O)	10
On Group III:	
Fertilizing salts containing—	
20 to 22 per cent K_2O	13
30 to 32 per cent K_2O	14
40 to 42 per cent K_2O	16
On Groups IV and V (potassium chlorid containing 50 or more per cent K_2O; potassium sulphate containing over 42 per cent K_2O; and magnesium potassium sulphate)	18

The duties on potassium salts not enumerated in paragraph 2 shall be fixed by the Bundesrat in accordance with the above-mentioned rates.

ARTICLE 27. Each owner of a potassium salts mine shall pay into the treasury of the Empire a tax on his total sales amounting to 0.60 mark per double hundredweight of pure potassium protoxide (K_2O).

[1] File No. 20437/81.
[2] File No. 20437/94 contains the entire text in translation.

The revenue derived from this tax is to be used for defraying the expense to be incurred by the Imperial Government for enforcing this law and for increasing the sales of potassium salts. The receipts and expenditures are to be incorporated in the budget of the Empire.

ARTICLE 46. The Bundesrat is empowered to reduce the duties provided for by article 26 and payable for deliveries under contracts concluded before December 17, 1909, so that the prices for quantities delivered after May 1, 1910, including the duty, shall not be higher than the prices that prevailed until June 30, 1909.

File No. 20437/83.

The American Ambassador to the Secretary of State.

[Telegram.]

BERLIN, *May 11, 1910.*

Reichstag passed potash law last evening. It empowers Bundesrat to reduce prices on contracts prior to December 17, 1909, so that on deliveries after May 1, 1910, the prices, duty included, shall not be higher than those prevailing before June 30, 1909.

HILL.

File No. 20437/83.

The Acting Secretary of State to the American Ambassador.

[Telegram.]

WASHINGTON, *May 11, 1910.*

Does your cable May 11 mean contracts will be filled at old syndicate prices? American contractors state they have information that potash bill passed Reichstag under misapprehension regarding views of this Government, and that if position of this Government is understood, law will not be enforced. If facts are as represented you will see to it that the position of this Government, as set forth in the department's cable of May 4, is thoroughly understood by the German Government.

WILSON.

File No. 20437/84.

The American Ambassador to the Secretary of State.

[Telegrams.]

BERLIN, *May 12, 1910.*

Imperial foreign office has been promptly and fully informed of our Government's position regarding American potash contracts and I am in close touch with the situation. Full statement of the German position is promised and will be forwarded when received.

HILL.

File No. 20437/85.

BERLIN, *May 12, 1910.*

Have had conference with the secretary of state for foreign affairs, who assures me that the American potash contracts will in no respect be invalidated or impaired by the new law, which as finally modified puts it in the hands of the Bundesrat to fix prices so that the existing contracts will not be affected.

HILL.

File No. 20437/94.

No. 697.] EMBASSY OF THE UNITED STATES,
Berlin, May 18, 1910.

SIR: After long and vigilant observation of the procedure of the German Government with respect to the regulation of the production and sale of potash, which has been the subject of much previous correspondence, I now have the honor to say that there has been no moment during the whole period of the consideration of this bill when the Imperial German foreign office has not been well informed of the position of our Government with respect to the American contracts for the purchase of potash. As evidence of this I refer to my despatch 622 of March 3, 1910, which résumés the course of events from January 10, 1910, down to that date.

By note verbale of April 18, 1910,[1] I formally expressed what I had previously proposed orally with regard to a friendly negotiation between the American contractors and the German producers with the aid of a committee of international bankers, and my telegram of April 25 states the reply of the German foreign office.

My note verbale of May 5[1] shows how forcefully these contracts were supported at that time.

On May 10 I had an important conversation with the German secretary of state for foreign affairs and with the imperial chancellor upon this subject, and as a result section 46 was introduced. The significance of this appears from the enclosed translation of the note of the Imperial German foreign office of May 11. I consider this note of May 11, in reply to mine of May 5, as the last word which we may expect from the German Government on this subject, and I therefore desire to call attention very particularly to some of its points.

1st. It is a fact, as stated in the note, that the purpose of this law, as I have previously pointed out, is the regulation of the sale of potash in such a manner as to prevent the exercise of monopoly privileges by one or a few of the producers.

2d. It is not the interest or the intention of the German Government to diminish the supply of potash to foreign purchasers, or to treat it as a subject of revenue, and I am confident that the representation that there is not in fact or intention any export duty under the terms of this law is correct. The tax imposed lies upon domestic sales as well as upon foreign sales, or more precisely not upon sales at all but upon production, and is intended to equalize the production among the various producers in order to prevent monopoly. This is certainly a reasonable aim and the tax appears to be the only effective method of attaining it.

3d. The point made in the German note in reply to our contention that the American contracts must not be impaired seems to me to be conclusive. In my note of May 5 I put the matter strongly, as I was instructed to do. I did not say, and felt that I had no right to say, that the Government charge referred to actually impairs existing contracts, for we know from having seen those contracts, although the German note does not make this positive assertion, that they include an agreement to pay any Government charges that may be imposed. If the contracts are valid, this agreement is valid, and

[1] Not printed.

the reference to possible Government charges can not be construed as a mere accidental expression. It is a definite reference to the foreshadowing of Government charges for the purposes already explained of securing equity in the potash industry by Minister Delbrück in the Reichstag on July 7, 1909, before these contracts were signed. It would seem, therefore, impossible for us to contend that the Imperial Government by imposing such a charge is doing anything it has not a right to do, for the charge is imposed by the law not upon the foreign purchaser, or any purchaser, but upon the producer, and is therefore of a wholly domestic nature. If the foreigner has beforehand agreed to take the burden of such a charge upon himself, that agreement is a part of the contract, and the action of the Imperial Government can not be construed as a violation of it.

4th. It will be noticed that while the action of the German Government might end at this point, under the representations I have made, to eliminate all possibility of wrong to the American contractors, the Bundesrath is authorized to reduce the duties in the case of contracts concluded before December 17, 1909, so that the prices shall not be higher than those which prevailed before these contracts were made. This is done in a spirit of equity, or I might rather say of generosity, for the other potash producers outside of the Schmidtmann interests have not at any time considered the American contracts, specifically the Bradley contracts, as fair to them. I have sent to the Department some literature upon this subject which is no doubt of a polemic nature, but at the same time it is necessary to take into account that from the German point of view these contracts were made against the general interest, and it must therefore be considered as a generous act if the advantages accruing from them to the foreign contractors are exceptionally protected.

I am personally convinced that the German Government in passing this legislation has been animated by a desire to regulate its own domestic matters in an equitable way and that at the same time it has wished not in any degree to imperil the general commercial relations now existing with the United States. I trust it may be found that the American contractors will be satisfied with the treatment which they are to receive under this new law, especially with the exceptional advantages afforded them by section 46. The Imperial Government appeals to the American Government for the exercise of its good offices with the American contractors in the final settlement of this matter, and it will be a great satisfaction to this embassy if now that the law has finally passed such an adjustment of the equities involved can be made as to conclude the negotiations.

I have, etc.,

DAVID JAYNE HILL.

[Inclosure.]

The Imperial Secretary of State for Foreign Affairs to the American Ambassador.

[Translation.]

IMPERIAL GERMAN FOREIGN OFFICE,
Berlin, May 11, 1910.

The undersigned has the honor to furnish the following information to his excellency, Mr. David Jayne Hill, ambassador of the United States of America, in reply to the note of May 5. on the subject of the potash law.

The Imperial Government ascertains with satisfaction that the American Government recognizes the right of the Imperial Government to regulate the sale of potash salts. The American Government will doubtless be strengthened in this view if it takes into consideration the fact that this regulation by law is directed toward prevention of the evils of the trusts, which it is likewise endeavoring to restrict by legal measures in its own country. In the case of such regulation of the sale of an important product of the country, a regulation incumbent in the interests of national economics, and demanded by the Reichstag by a large majority, the objection of foreign countries can appear justified only if they are subjected to differential treatment. Such discrimination is not provided for in the law in question.

The law provides that a fixed quota for the home market and for the foreign market shall be allotted each potash mine. Deliveries of potash salts within the quota are free from duty. A duty is only to be paid when the quota is exceeded. The American Government is not accurately informed if it supposes that the allotment of quotas is done arbitrarily and insufficiently. The intention of the law is by no means to restrict the sale of kalium. On the contrary, it is in the interests of German national economics to have the sale of potash at home and abroad increased as much as possible. The allotment office, which is composed of representatives of the German Government and owners of potash mines, has to fix the quotas according to the demand for potash at the time of allotment and in consideration of the demand which existed the year foregoing; in Germany's interests it will not make the quotas too low either for the home market or for the foreign market. Furthermore, this office is required by express provision of the law (sec. 6)[1] to fix the quotas higher each year than they were for the year past at the time of allotment. In addition, the clause that the allotment office may subsequently increase the amounts fixed anticipates any possible increase in the demand at home or abroad which might arise in the course of a year by providing that such increase may find sufficient quantities of duty-free potash salts to satisfy it. The United States is thereby absolutely assured the amount of potash it requires each year. It follows from the foregoing that the (governmental) duty is not only not an export tax technically, but will not have the effect of one. There can arise no question of an export duty, for the reason that the duty on excesses is also imposed when the inland quota is exceeded. The duty is to serve to avoid overproduction exceeding the world's demand, and to prevent single works or combinations of works from grasping for themselves the entire production of potash, creating a monopoly and rendering impossible the free competition of the other works. The legal provision in question has therefore the like aim for the potash industry as was contemplated for all branches of industrial life in the United States by the Sherman Antitrust Act of 1890.

In reply to the statements of the American note—that the charges imposed impair contracts legally concluded by American citizens, or even invalidate them; that they amount to an unforeseen burdening of the American contractors; and that they affect only such existing contracts as have been entered into by Americans—the following is submitted:

Firstly, contracts between German potash works and French citizens are also affected in the same manner. Secondly, according to the law, the duty is to be borne by the producer in Germany.

Now if in a single case the buyer has bound himself by contract to bear the duty, that is a private agreement, for the consequences of which the Imperial Government can not possibly be made responsible. If this is the case with the American contracts, the American buyers have assumed this obligation, as they must have taken into consideration the introduction of such a duty. For in the session of the Reichstag of July 7, 1909, Minister Delbrück, then royal Prussian minister of commerce, designated the levying of such a duty as a useful measure, and gave it to be understood that legal regulation to this effect was not improbable. This declaration had as its purpose to prepare interested parties for the introduction of the duty. Nevertheless, a month later, on August 8, the American contractors ratified the drafts of agreements made without binding force with Schmidtmann during the night from June 30 to July 1, and thereby made legally binding contracts out of preliminary agreements without binding force.

The Imperial Government is therefore unable to recognize that the duty provided for by the law amounts to an unjustifiable infringement of American

[1] Should be Ch. II, art. 7.

contracts which could not have been foreseen. The situation is analogous to that which obtains whenever a new tariff law is introduced in the United States: in contrast with the usage in Germany, where a considerable space of time is left between the publication of a new customs tariff law and its enforcement, thus rendering possible the fulfillment of existing contracts at the rates of the old tariff, the Union puts the rates of a new customs tariff in force the day after its passage by Congress, and infringes upon contracts previously concluded by imposing the higher rates of the new tariff. Although contracts concluded by German nationals are often seriously impaired thereby, the Imperial Government has never made representations in such cases, much less called such procedure an unfriendly act, as was done in the American note of May 5, or gone so far as to threaten rupture of previously friendly commercial relations. The tariff legislation of the large English colonies, Canada, Australia, might be cited. In these countries the rates provided for by a mere customs tariff bill are enforced on the day the proposed law is introduced in Parliament. The Imperial Government has, however, never heard that in such cases, where without doubt numerous contracts concluded by American firms are materially affected by new and quite unforeseen burdens, the American Government has ever entered a protest.

Although the Imperial Government is quite satisfied that the regulation provided for by the law embodies no unjustifiable or disloyal restriction of American rights, it is not unwilling, in order to furnish the American Government with new proof of its friendly feeling, to accommodate to a certain extent the American wishes.

The fact that the duties fixed by the law would have a more unfavorable effect on foreign prices than the parties interested were led to suppose after the declaration of the royal Prussian minister of commerce mentioned above, might perhaps be looked upon as rigorous; in view of such possibility the minister of commerce inserted in the bill a duty equal to the difference between such "dumping prices" as might be made and the foreign prices paid up to July 1, 1909.

Accordingly, in order to be able to comply with the wishes of the American Government, the law contains a clause whereby the Bundesrath is authorized to reduce the duties for contracts concluded with binding force before December 17, 1909, so that the contractual prices, including the duty for quantities delivered subsequent to May 1, shall not be higher than the prices which prevailed up to July 1, 1909.

If the Bundesrath should make use of this authorization, the American buyers would be deprived of all pretext for complaints of injury to just interests. They would receive potash salts at the same prices as they paid before July 1, 1909, and they would only lose the purely speculative profit they endeavored to obtain by taking advantage of the unfortunate condition of the German potash market. It may be remarked in this connection that the insertion of this clause in the law is now being sharply attacked by the German interests. For example, in No. 106 of "Industrie" the Imperial Government is reproached with excessive complacence toward foreign countries. The American Government will perceive from this that the Imperial Government has gone to the utmost possible limits of courtesy towards it in the modification of the law just discussed.

The Imperial Government welcomes the American Government's offer of its good offices towards overcoming the existing difficulties, and is for its part ready to negotiate further on the basis mentioned relative to the removal of these differences.

The undersigned avails, etc.,

SCHOEN.

File No. 20437/94.

The Secretary of State to the American Ambassador.

DEPARTMENT OF STATE,
Washington, June 1, 1910.

Your telegram May 12, and dispatch 697, May 18. Notwithstanding your assurances from the German secretary of state for foreign affairs that American potash contracts will in no respect be invalidated or impaired by the new law, shipments made since May 10

are invoiced at prices including full Government tax equal to $22 per ton of muriate of potash. It is the firm conviction of the Department that the power of the Bundesrath under paragraph 46 of the law should be invoked and exerted to the fullest possible extent in support of the American contracts. This Government must insist that good faith requires that the price fixed in these contracts, which were freely and fairly made after solicitation by the German interests, shall not be unduly increased. The necessary recognition in the contracts of the German right of taxation related to a proper and moderate exercise, now provided for in paragraph 27, and not to the excessive burden of paragraph 26, which practically trebles the normal price of the product and confiscates the contracts under the guise of a tax on excess production. It is obvious without demonstration that neither the principle of conservation of natural resources nor the doctrine of trust control is an underlying motive or justification for this law.

You will examine the whole subject carefully again and advise the Department whether the matter can best be presented and urged upon the Government and the Bundesrat by further representations of the Department through you, or by the private interests involved.

KNOX.

File No. 20437/96.

The American Ambassador to the Secretary of State.

[Telegram.]

BERLIN, *June 6, 1910.*

Answering your June 1. Apparently impossible to procure repeal of potash law, passed with full knowledge of our views. I suggest immediate request for most favorable conditions obtainable from Bundesrat under section 46.

HILL.

The Secretary of State to the American Ambassador.

[Telegram.]

WASHINGTON, *June 7, 1910.*

You are instructed to represent to Bundesrat that potash contracts made in good faith in Germany by Americans at solicitation of responsible mine owners, are now sought to be rendered valueless by heavy tax burdens devised and advocated by other mine owners, after ascertaining that certain German mine owners and Americans had agreed on prices and terms. You will urge that the parties to these contracts, made previous to December 17, 1909, be permitted to complete all their obligations as originally made, without imposition of tax provided in paragraph 26 of new law. You will also represent that the Department is convinced that the power to give such permission rests with Bundesrat under paragraph 46, and assumes that assurances given you by secretary for foreign affairs, upon passage of the law, to the effect that American contracts would not be invalidated, impaired, or affected, were meant in good faith and that no adverse decision is now possible.

KNOX.

File No. 20437/96.

The Acting Secretary of State to the American Ambassador.

No. 397.] DEPARTMENT OF STATE,
Washington, June 9, 1910.

SIR: The Department is in receipt of your telegram of June 6, 2 p. m., and now confirms its reply under date of June 7. There is little to add in view of the complete statement of the case of the American potash contracts contained in the Department's instructions of June 4, No. 393. However, the importance of pressing for an early and definite conclusion of this case is emphasized somewhat by the fact that the options extending the one and two year contracts for periods of seven years from June 30, 1909, must be closed by or before July 1, 1910. It is feared by Americans that the interests in Germany will endeavor to prolong the uncertainty to a point beyond July 1, so that Americans will not exercise their option, to which they are fairly entitled, within the time specified in the contracts. Assuming that their contracts for one and two years will not be affected or invalidated by the new law, the Americans would naturally desire to extend their contracts by exercising their option so to do before July 1, 1910. For your information it may be added that it has always been the custom of Americans, during the many years they have been buying potash from German mine owners, to contract ahead for a period of several years and that the provision for doing so in the present contracts is no innovation.

Complaints continue to be made to the Department that invoices of shipments since May 10 are coming in with the full amount of Government tax added. These invoices the Americans are obliged to pay because payments, as has been the custom heretofore, are made against letters of credit in German banks. The drafts can not be refused as in ordinary transactions where the drafts with documents are payable on arrival. It is only a question of a short time when, with continued shipments, Americans will have a large amount of money locked up in this arbitrarily imposed Government tax amounting to more than the value of the potash delivered on this side. This, unaided, they are powerless to prevent.

I am, etc.,

HUNTINGTON WILSON.

File No. 20437/108.

The American Ambassador to the Secretary of State.

No. 729.] AMERICAN EMBASSY,
Berlin, June 23, 1910.

SIR: Referring to the Department's telegraphic instruction of June 1, to its instruction of June 4, No. 393,[1] and to its second telegraphic instruction of June 7, regarding the conclusions reached by the Imperial German Government with respect to the regulation of the production and sale of potash, I have the honor to report that, etc. [references to the following three inclosures].

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[1] Not printed.

With regard to the third numbered statement in my dispatch No. 697, of May 18, in which I emphasize the German position that the imposition of a Government charge does not impair the existing contracts, since these contracts contained a specific agreement to pay any Government charges that may be imposed, I ought perhaps to explain that in stating that point to the Department without having at all conceded it in any expression to the Imperial Government, I was relying upon the declaration of Minister Delbrück before the Reichstag on July 7, 1909, before the signing of the American contracts, that the levying of a duty and legal regulation of the output of potash would be useful and would probably be resorted to. As explained to me personally by Minister Delbrück, this announcement was intended to prevent the making of separate contracts which would disorganize the potash industry, in which, it should be remembered, the Prussian Government is directly interested. He therefore maintains that the execution of that proposal is just, because the proposal was meant to be prohibitive of such contracts as were afterwards made. In making my statement above referred to in dispatch No. 697 I was fully persuaded that this allegation on the part of Minister Delbrück is true, and I still believe it to be so. On the other hand, I now have reason for doubting that the American contractors were aware of the intention of the Imperial Government to impose such heavy penalties as have been imposed by the recent potash law, for I am informed by the legal adviser of some of them, Justizrat Schneider, that he assured the American contractors that if any Government charges were imposed, and he thought it doubtful if any would be, they probably would not be of such a character as to create a heavy burden. In this it seems he was mistaken. I have, therefore, felt justified in emphasizing the department's view, which is also my own view, that the "Government charges" contemplated in the American contracts, and which it is agreed the American contractors are to pay, are not such heavy penalties as those imposed by paragraph 26 of the existing law, but rather such moderate revenue charges as are imposed by paragraph 27 of the law.

Of course, all these questions would be swept aside if the interested parties on both sides could come to a voluntary agreement, and, if it should prove possible, that would no doubt be the most desirable termination of the present situation.

I have, etc.,

DAVID J. HILL.

[Inclosure 1.]

The American Ambassador to the Secretary for Foreign Affairs.

AMERICAN EMBASSY, *Berlin, June 9, 1910.*

EXCELLENCY: Referring to the previous exchange of notes on the subject of the effect of the law regulating the production and sale of potash, of May 25, 1910, I have the honor to call the attention of your excellency to the condition in which the American contractors find themselves placed by the operation of that law.

The American contractors referred to took upon themselves contract obligations at the solicitation of well known and responsible mine owners in Ger-

many able and willing to fulfill their obligations. It is true that the American contractors agreed to assume the light government charges which might in the future be imposed upon this industry, as has been provided for in section 27 of the present law. It was not anticipated and it could not have been imagined that a penalty considerably greater than the price of the product agreed upon in these contracts would be imposed, yet this has been done in section 26 of the law.

The contract price per 200 kilogrammes of muriate of potash named in these contracts is 7.70 marks; the penalty imposed upon the mine owners for production over their assigned quota is 9 marks, which makes the cost 16.70 marks, whereas the general market price, even as protected under the law, is not over 14 marks.

It is evident from this mere statement of facts that the American contracts have been since May 25 not only rendered valueless but that there is imposed upon the American contractors, if the contracts are fulfilled, the obligation to pay much more than the market price. The government charge has been, from the moment this law was passed, added to the contract price by the producers, on the ground that exporting the whole of their product they have no quota exempt from the penalty and that the American contractors must pay this extortionate sum.

In order to understand fully the injustice of this law in its effect upon the American contractors, it is necessary to consider the fact that the German producers affirm that if not interfered with by law they could fulfill these contracts at a large profit. It is therefore evident that by imposing a Government charge considerably greater than the contract price of the commodity sold at a price to afford a generous profit the action of the Government has inflicted a serious injury upon the American contractors and not only destroyed all the profits of their business but placed them under obligations to meet a heavy loss.

Such being the existing circumstances of the case, it is a satisfaction to believe that in fulfillment of the assurances of the Imperial German Government that this law was not intended to invalidate or impair the American contracts that it will take such action as to restore to them their value.

The probable effect of this law was so clearly foreseen that provision was made in the law itself for averting such consequences. I am instructed by my Government to invoke the sense of justice of the Imperial German Government in this matter as respects contracts concluded before December 17, 1909, to the end that such exemption be made as may be necessary in order to avoid the impairment of these contracts.

As the American contractors have already incurred large obligations at an absolute loss and these losses are continuing day by day under the present conditions, it is evident how extremely pressing the matter is, and the Imperial German Government is urgently requested to give it early attention.

I avail, etc.,

DAVID J. HILL.

[Inclosure 2.]

The Secretary for Foreign Affairs to the American Ambassador.

FOREIGN OFFICE, *Berlin, June 21, 1910.*

The undersigned has the honor to inform his excellency, Mr. David Jayne Hill, ambassador of the United States of America, in reply to the note of the 9th instant, that the Imperial Government is ready to lay before the Bundesrath a motion that the advantages of paragraph 46 of the potash law be extended to the contracts concluded by American purchasers previous to December 17, 1909. It may, however, be pointed out that the advantages to be granted must be kept within definite limits, since the legal provision in question is intended merely to offer foreign purchasers security that they will not be compelled, in consequence of the legal charges, to incur higher expenditures in the purchase of the salts than would be the case in buying salts not burdened with duties from another source.

Therefore, in calculating the average expenditures, including the reduced duties, which the purchaser has to pay out for the salts, the quantities not in excess of the quota of the seller and not burdened with the duty, must also be included.

Secondly. As was already stated in the note of the foreign office of May 11, the reduction can only be applied to quantities which the buyer can prove that he is obliged to accept, and not to quantities with respect to which he may exercise the right of option.

Thirdly. The buyer would have to petition for reduction of the duty to be paid by the seller, and at the same time furnish proof that he is not only bound to accept the goods, but to defray the duty also.

Lastly. The Imperial Government would not like to omit the suggestion that perhaps the proper moment has arrived for an amicable agreement between the American buyers, the potash works supplying them, and the other potash works, which would settle the question of levying a duty on the ground of paragraphs 26 and 46 of the law. The Imperial Government would be ready to promote such an agreement as far as possible.

The undersigned avails, etc.,

SCHOEN.

[Inclosure 3.]

The American Ambassador to the Secretary for Foreign Affairs.

AMERICAN EMBASSY, *Berlin, June 23, 1910.*

The undersigned has the honor to acknowledge the receipt of the note of his excellency, Baron von Schoen, imperial secretary of state for foreign affairs, of June 21, 1910, stating that the Imperial Government is ready to lay before the Bundesrath a motion that the advantages of paragraph 46 of the potash law be extended to the contracts concluded by American purchasers previous to December 17, 1909.

While it is a satisfaction to know that the Imperial Government is ready to act upon the provision of law intended to prevent the invalidation of the American contracts through the operation of the general provisions of the recent law for the regulation of the potash industry, it is not clear from the qualifications added in the note of June 21 that the American contracts may not suffer considerable losses even with the favorable action of the Bundesrath, provided the three conditions laid down in that note are applied.

The first condition laid down in the note is that "in calculating the average expenditures, including the reduced duties, which the purchaser has to pay out for the salts, the quantities not in excess of the quota of the seller and not burdened with the duty, must also be included." It is not clear what relation the reduction of duties can have to those quantities which under the law are exempt from duty.

The second condition is that "the reduction can only be applied to quantities which the buyer can prove that he is obliged to accept, and not to quantities with respect to which he may exercise the right of option." While it is admitted that the reduction of duties can apply only to quantities actually taken at the present time or in the future under the contracts, it can not be admitted that the rights of option agreed upon in the contracts themselves, including the right of extending the contracts as specifically provided for, can justly be denied.

The third condition requiring the buyer to petition for a reduction of the duties to be paid by the seller and to furnish proof that he is not only bound to accept the goods but to defray the duty also, requires a special comment. It is a fact that the American buyer is at the present time actually charged and is held bound to pay the maximum duty on his purchases, since the sellers have no untaxed quota to dispose of. There will be no difficulty in establishing the facts that these duties are demanded and apparently must be paid, unless relief is afforded to the American contractors. It is true that a fair interpretation of the contracts would not oblige the American contractors to pay the confiscatory charges imposed by the present law, for the obligation to pay the Government charges that might be imposed, as stated in my last note, was only in contemplation of a light revenue charge such as that imposed in paragraph 26 of the potash law and not a Government charge exceeding the value of the goods as named in the contracts. It is at this point that the injustice to the American contractors is rendered most plain, for they are held by the terms of the contracts to bear burdens which were never contemplated when they were signed and which are absolutely ruinous to their business unless relief is

afforded. It is therefore expected that this relief in accordance with the promises and representations of the Imperial Government will be afforded and that it will be ample to prevent the invalidation of the contracts. It may be doubtful if under the provision of paragraph 46 of the law it is possible to prevent heavy losses on the part of the American contractors, and if this should prove to be the case the American Government would feel obliged to ask for still further exemptions. Attention should also be drawn to the fact that options provided for in these contracts, extending the one and two year contracts for longer periods, must be closed by or before July 1, which is very near at hand. If the existing conditions of affairs, which is a practical invalidation of the American contracts, be continued until July 1, 1910, it is evident that the American contractors will not wish to extend relations which they can sustain only at a heavy loss. As this condition has been imposed by the existing potash law, the petition of the American contractors is one of very great embarassment unless it is promptly relieved, and the undersigned feels it to be his duty most urgently to request that action be taken to terminate the present situation in time for the American contractors to decide whether they will or will not exercise their right of option on or before July 1, 1910.

Finally the undersigned notes the suggestion contained in the last paragraph of the note of June 21 that perhaps the proper moment has arrived for an amicable agreement between the American buyers, the potash works supplying them, and the other potash works, which would settle the question with regard to the levying of duties. It is noted also that the Imperial Government would be ready to promote such an agreement so far as possible. The American Government would no doubt be entirely satisfied with any amicable arrangement voluntarily accepted by the American contractors, but until such an amicable arrangement is effected it must continue to maintain its attitude of remonstrance against the invalidation of the American contracts as an act of injustice which it can not believe that the friendly disposition of the Imperial Government would permit it to sanction.

The undersigned avails, etc.,

DAVID J. HILL.

File No. 20437/104.

The American Ambassador to the Secretary of State.

[Telegram.]

BERLIN, *June 24, 1910.*

Imperial Government will move action of Bundesrat authorized in article 46 but suggests all interested parties confer and come to an amicable agreement. I have answered that such arrangement satisfactory if voluntarily accepted by American contractors, but that American remonstrances against effects of the law must continue until relief is had. I have called attention to option of extension of contracts and pressed for action in time for its exercise before July 1.

HILL.

File No. 20437/105.

[Telegram.]

BERLIN, *July 1, 1910.*

Bundesrat rendered decision June 29. Reduction of duty on excesses of quota shall be contingent on compliance with three conditions laid down in foreign office note of June 21, which are:

First. In calculating the average expenditures, including the reduced duties that the purchaser has to pay for the salts the quantities not in excess of the quota of the seller and not burdened with the duty, must also be included.

Second. The reduction can be applied only to quantities which the buyer can prove he is obliged to accept, and not to quantities respecting which he may exercise his option. (*See* Foreign office note of May 11.)

Third. The buyer must petition for reduction of duty to be paid by seller and at the same time prove that he is not only bound to accept the goods but also to defray the duty.

HILL.

File No. 20437/105.

The Acting Secretary of State to the American Ambassador.

[Telegram.]

WASHINGTON, *July 2, 1910.*

Ascertain if the German Government desires a conference in Berlin in July between parties interested.

WILSON.

File No. 20437/107.

The American Ambassador to the Secretary of State.

[Telegram.]

BERLIN, *July 2, 1910.*

German Government agrees to conference, but owing to absence of officials representing interests of Prussian Government, could not have meeting until August or September.

HILL.

File No. 20437/107.

The Acting Secretary of State to the American Ambassador.

[Telegrams.]

WASHINGTON, *July 5, 1910.*

The Department will not recommend a conference on the basis of your telegram of July 1. The three conditions therein stated appear to conflict with official assurances made to you upon passage of the law. See your telegram of May 12.

WILSON.

File No. 20437/114.

WASHINGTON, *August 16, 1910.*

The Department intends to send early in September one of its commercial advisers to cooperate with you regarding the potash question, the settlement of which apparently demands further diplomatic action.

WILSON.

File No. 611.627/140.

The American Ambassador to the Secretary of State.

[Extract.]

No. 801.] AMERICAN EMBASSY,
Berlin, September 22, 1910.

SIR: I have the honor to inform you that Mr. Mack H. Davis, commercial adviser to the Department of State, presented himself at the embassy on September 15. Mr. Davis is fully satisfied that it is necessary for our Government to bring some pressure upon the German Government in order to procure from the latter the full recognition of the rights of the American contractors whose contracts have been rendered practically valueless by the operation of the law; and in this I fully agree with him * * *. Mr. Davis will begin with a thorough inquiry into the ends and purposes of the German Government in passing the potash law of May 25 [sic], 1910 * * *. Mr. Davis and I are in perfect accord as regards the necessity of causing the German Imperial Government to understand that the American Government must insist upon respect for the American contracts, and that while we expect the German Government to perform its promises in this regard, the American Government will if necessary be advised to take such action as it may be able to take in accordance with its own laws to enforce the rights of American citizens.

I have, etc.,

DAVID J. HILL.

File No. 611.627/141.

The Acting Secretary of State to the American Ambassador.

[Telegram.]

WASHINGTON, *October 8, 1910.*

In response to your 801 you are informed that the Attorney General finds that under cover of the German potash law an unlawful combination has been made in Germany, going very far beyond that law in its effect in the United States, where it has effected its purposes not only by acts done abroad but actually through the medium or with the assistance of an American corporation organized by the German mine owners and their agents for the purpose of more effectually carrying out their unlawful scheme.

Therefore sections 73 and 74 of the act of August 27, 1894, are applicable to the facts detailed; and a violation of the Sherman Anti-trust Law of July 2, 1890, may also be established. The whole matter should be thoroughly investigated by a Federal grand jury, and the Attorney General asks whether it would unduly interfere with pending negotiations with the German Government if such investigation were to begin immediately.

Section 2 of our tariff act of 1909 may also well apply to the facts presented. The Attorney General summarizes his conclusions on this point to the following effect:

The intention of Congress was manifestly to obtain from foreign Governments by virtue of this clause fair and impartial treatment in commerce, and each case must be determined upon the conditions and facts existing, and no device or subterfuge should be permitted to defeat the legislative intent. The circumstances attending the adoption of the law of May 10, 1910, by the German Government may very properly be considered by the President in determining whether or not the tax was imposed with the specific intent of nullifying the contracts for the sale of potash to American purchasers, and therefore clearly constituting an undue discrimination against the United States.

ADEE.

File No. 611.627/144.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

BERLIN, *October 15, 1910.*

Referring to your Oceober 8, the potash negotiations have ended without any favorable result. I have asked Mr. Davis to withhold his report to the Department until I have represented to the chancellor the gravity of the situation and made a personal appeal for a friendly arrangement.

HILL.

File No. 611.627/144.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, *October 15, 1910.*

Before making representations to the chancellor cable synopsis of report of Mr. Davis including his recommendations. The Department will communicate with you further before framing response to the Attorney General.

ADEE.

File No. 611.627/146.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

BERLIN, *October 17, 1910.*

A satisfactory arrangement can, we hope, be made if we can have the necessary authority. Your October 15 received.

HILL.

File No. 611.627/146.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, *October 18, 1910.*

The Department authorizes you to confer with the chancellor, but does not wish the matter to be presented in the form of an appeal or with undue concessions. Present it with discretion and reserve, maintaining the dignity of this Government and its firm attitude throughout this transaction. This explicit caution has particular reference on the one hand to the consideration that this Government, by its intimation through you of the state of the law under our trust statutes, did not intend to convey a mere threat; and on the other hand to the consideration that this Government can not undertake to control appropriate proceedings by the Attorney General which further development of the facts may render strictly necessary under our laws.

KNOX.

File No. 611.627/152.

The American Ambassador to the Secretary of State.

[Telegrams—Paraphrase.]

BERLIN, *October 24, 1910.*

The chancellor has instructed his Government to find a friendly means of securing American rights, and I have consented, with approval of Americans, to mediate unofficially upon condition:

First, recognition by the Germans, as promised, of the obligation of the contracts, with provision for their execution, subject to such modifications as may be accepted by American contractors;

Second, the refunding of money deposited by Americans under protest;

Third, that German potash syndicate do not maintain agencies in the United States nor sell to others at lower prices than offered to American buyers.

Unless otherwise instructed I shall consider myself permitted thus to mediate, making no concessions of right or principle, and concluding no official engagement for the United States.

I have cautioned the Americans not to enter into any relations with the potash syndicate that would be contrary to our trust statutes, and have informed the German Government that these statutes will be enforced whenever the Department of Justice considers it necessary.

HILL.

File No. 611.627/158.

BERLIN, *November 6, 1910.*

I have failed to obtain a definite proposition for settlement of the potash questions. The Americans have offered to divide equally the

difference between their contract prices and those prevailing before the contracts were made. This has not been accepted. There is no prospect therefore of a friendly settlement by taking over and fulfilling the contracts, and I have ended my personal mediation having that in view.

The German Government claims that it has not invalidated the contracts, and says that if it is impossible to execute them it is because the Americans have bound themselves in the contracts to bear the Government charges; and that if they have not done so they are not affected by the potash law. Whether or not they have done so has not yet been legally settled and until it is the German Government refuses to admit that it has done the American contractors any wrong. Under the Bundesrat ruling the Americans must prove their liability to pay the tax as a condition of any exemption. The present status however requires them to pay it whether they legally ought or not, and it is from this requirement that we have sought relief.

For the German Potash Syndicate to do business in the United States is an evident violation of our trust statutes and there is no reason known to me why proceedings should not be begun against the agents of the syndicate.

HILL.

File No. 611.627/254a.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, *December 20, 1910.*

Because he attaches such value to harmonious relations, commercial and diplomatic, with Germany, it is with regret, as well as surprise, that the President hears reports of unsympathetic reception of all the efforts recently made at Berlin by the interested Americans to settle with diplomatic good offices the potash question, wherein Americans claim to have been treated in a manner both inequitable and unfriendly, and at the indifference still further evidenced by the fact that the German ambassador now disclaims all authority even to discuss the matter.

Unable to explain the attitude of the Imperial German Government except upon the theory that the true feeling of the Government of the United States may not have been correctly interpreted, the President finds another disquieting element in the situation in persistent reports from several quarters that Count Bernstorff has minimized the interest of the United States in the question, although this could scarcely be credited, inasmuch as from the first the Secretary of State went to great lengths to impress upon him, with quite unusual emphasis, the earnestness of the United States.

It is wholly pertinent to recall also the following facts: First, that, as part of the tariff negotiations, the Government of the United States protested against the first projected bill, which made no provision for equitable dealing with American contracts; second, that the Imperial German Government next withdrew that project of law; third, that the tariff arrangement extending the minimum was then concluded; fourth, that thereupon the Imperial German Government projected a new law with a provision perfectly adapted to

protect the American contracts; fifth, and most significant of all, that the American ambassador at Berlin then received from the minister for foreign affairs and wrote down in his presence[1] positive assurance that the American contracts would not be affected.

The impression of the Government of the United States would be a painful one if, especially when ready remedial governmental action is open to the chancellor through the law and the Bundesrath, the Imperial German Government so ill-reciprocated the conciliatory feeling of the United States toward German interests as to remain longer inactive in the face of the situation thus created; and the President would be compelled to regard the absence of a disposition to some just and prompt solution as seriously disturbing those reciprocal and equitable commercial relations which he had supposed were equally prized by both Governments.

You will present the foregoing textually to the German Government, and inasmuch as the subject is so important as to be receiving the close attention of the President, he desires to have it brought to the special attention of His Majesty the Emperor.

KNOX.

File No. 611.627/262.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

BERLIN, *December 23, 1910.*

At an interview yesterday with the chancellor I presented your aide memoire of December 20. He received it amiably and asked for time to reply, considering its importance and the absence of his colleagues at this holiday season.

HILL.

File No. 611.627/305.

The Secretary of State to the American Ambassador.

[Telegram.]

WASHINGTON, *January 12, 1911.*

The fact that the potash law operates to transfer vast sums direct to the imperial treasury through levies upon potash under American contracts prior to the pasage of the law, while sales by the syndicate pay no penalty tax into the imperial treasury, is creating a widespread sentiment decidedly unfavorable to Germany.

You are instructed to press for an early reply to the Department's telegram of December 20, and to state whether the text of that telegram has been brought to the attention of the Emperor.

You will say to the chancellor that action by the Bundesrat which does not equally relieve the American contracts from penalty taxes, and provide for refunding the millions of dollars taxes now accrued and paid, will not satisfy the President that unfriendly legislation was not intentional.

KNOX.

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[1] See below, the Ambassador's despatch 893, Feb. 8, next to last paragraph.

File No. 611.627/344.

The German Ambassador to the Secretary of State.

IMPERIAL GERMAN EMBASSY,
Washington, January 31, 1911.

YOUR EXCELLENCY: In reply to the aides memoire which the American ambassador at Berlin submitted to the Imperial Government on December 22, 1910, and on January 11 [sic], 1911, regarding the potash question, I have the honor to inclose a memorandum, requesting that you kindly make its contents known to the United States Government. The memorandum corrects certain errors contained in the American aides memoire and gives a history of the potash legislation, pointing out its most essential provisions. The Imperial Government trusts that the United States Government, after receiving correct information regarding the facts of the potash law, will form an opinion different from that entertained until now.

The Imperial Government proposes that in the first place the legal question who, according to the private contracts, has to pay the excess delivery tax, should be settled by arbitration as provided for by the contracts. In case the verdict should not be in favor of the American purchasers the Government of the United States would have legitimate cause, not established so far, for intervention on behalf of the American purchasers, and then the Imperial Government would be willing to enter into negotiations in accordance with the terms discussed in private conversation between Ambassador Hill and Minister Sydow last fall, upon which an agreement, except regarding the prices, was reached. In order to settle the latter point the Imperial Government and the United States Government would have to agree on such prices as could be considered by both sides as fair and equitable. After coming to an agreement the two Governments would have to use their influence with the parties interested to bring about an acceptance of such prices.

The Imperial Government, in declaring its willingness to enter into friendly negotiations on the settlement of these private differences, does this on the supposition that the United States Government is likewise inclined to a friendly arrangement of this question, and will desist from intimations as made in the Aide Memoire of December 22d. The Imperial Government sees in this the best and at the same time the only way to come to an understanding which will be in the interest of the American purchasers.

Accept, excellency, etc.,

J. BERNSTORFF.

[Inclosure.]

MEMORANDUM.

The Imperial Government, regretting the unfavorable opinion of the United States Government regarding the German potash law and its effect on American interests, [is] convinced that this unfavorable opinion is caused, as the aide memoire shows, by the incorrect information which the United States Government has received concerning the potash law and the circumstances connected with it * * *.

The Imperial Government hopes that the United States Government, in consequence of the following statement of facts, will form a different opinion of this matter.

Some remarks regarding the history of the potash law may precede.

Negotiations took place in the summer of 1909 to renew the Potash Syndicate, which for years had regulated the production and delivery of potash with due regard for the general welfare. These negotiations failed, and immediately afterwards, during the night hours between June 30 and July 1, 1909, Mr. Schmidtmann, the owner of a potash mine, who, until its dissolution was a member of the Potash Syndicate, entered, acting for the Aschersleben mine, into a contract which at first was not binding and contained only informal stipulations for the delivery of large quantities of potash at ruinous prices to the American Agricultural Chemical Co. The term of the contract was two years and an option of renewal of the contract for a further five years was given. The prices of this contract automatically apply to contracts which Schmidtmann had made with the independents for the Sollstedt mine previous to the latter's joining the syndicate. These Schmidtmann contracts greatly disturbed the German potash market and caused a discussion of the situation in the session of the Reichstag of July 7, 1909. In its course Mr. Delbrück, then Prussian minister of commerce, declared that the German Government, in order to protect the German potash deposits from wilful waste, had in consideration to place a tax on potash equal to the difference between ruinous contracts and normal prices. In August, 1909, the American purchasers signed as formal contracts the stipulations, which until then had not been binding.

In pursuance of the statements made by Minister Delbrück, conferences took place between the competent authorities with reference to legislative regulation of the production and delivery of potash. When intimations to this effect appeared in the press the counsellor of the American Embassy at Berlin verbally inquired at the foreign office whether it was intended to place an export duty on potash. He remarked in this connection that the introduction of such an export duty might, considering the provisions of Section II of the American tariff law, unfavorably influence the discussions of a rearrangement of the German-American commercial relations. Thereupon verbal answer was given to the counsellor that the internal authorities were occupied with the question what, on account of the well-known circumstances, should be done to safeguard the interest of the German potash industry; that the matter had not passed the stage of discussion; and that the placing of an export duty on potash was not intended.

On December 17, 1909, when Germany and the United States had entered upon tariff negotiations, the first draft of a potash law, introduced by Prussia, was laid before the Federal Council and at the same time published. This bill met with opposition in the Federal Council and an amended bill was drafted and laid before the Reichstag on February 3, 1910.

On January 10, 1910, Mr. Hill, the American ambassador, for the first time mentioned the potash question in writing but, as he expressly stated in the missive, unofficially, expressing the hope that the value of American contracts might not be impaired by the intended measure. A note of the same tenor was addresed to the foreign office by Mr. Hill on February 4, 1910, i. e., at a time when the tariff negotiations were nearing their conclusion. These steps were taken independently and had no connection whatever with the tariff negotiations. As a matter of fact during the latter, carried on by the State Department and the German ambassador at Washington, the potash question was never mentioned, as shown by the numerous notes then exchanged, dealing with the most varied subjects. The imperial ambassador, Count von Bernstorff, upon an inquiry recently addressed to him, asserted emphatically that during the tariff negotiations the word "potash" never, not even in verbal conversations, was mentioned to him.

By verbal note of February 24, 1910, in answer to the communications of January 10 and February 4, 1910, the necessity of a regulation by law of the potash question was explained to the American embassy at Berlin. The principles underlying the bill then laid before the Reichstag by the Federal Governments were stated and assurance given that the prospective tax would not be so high as to render impossible the fulfillment of existing contracts. This bill was not passed by the Reichstag, and a new bill, drafted by members of that legislative body, was enacted in May, 1910.

It appears from this account of the facts that the aide memoire was incorrect in stating that the American Government protested against the first bill in connection with the tariff negotiations, and that as a consequence of this protest the first bill was withdrawn by the Imperial Government. The United

States Government, referring to the tariff negotiations, has addressed to the German Government only the verbal inquiry whether as rumored an export duty was planned. No protest was preferred; much less was a bill withdrawn by the Imperial Government on account of a protest. The United States Government did not enter into the potash question during the tariff negotiations and made no proviso regarding the potash situation in the agreement concluding the tariff negotiations, but granted unconditionally to Germany, in exchange for the entire German conventional tariff rates, the American minimum tariff, and expressly gave to Germany the most-favored nation treatment.

The Imperal Government may in this connection invite attention to the circumstances that led to the commercial agreement. On account of the American tariff act of 1909 the United States had to enter upon rather difficult negotiations, not only with Germany but also with France and Canada. By complying with the wish of the American Government in granting the whole conventional tariff, Germany showed her good will and greatly facilitated the American negotiations with France and Canada. Under these circumstances the German Government would be compelled to consider it as an unfriendly and discriminating act if the American Government, on account of a purely internal German matter, not in the least affecting the tariff rates or regulations, should take into consideration the interruption of the friendly commercial relations with Germany, at the same time not objecting to the open and continuous discrimination against American products on the part of France and Canada.

Furthermore, the assertion of the aide memoire should be corrected according to which the former secretary of the foreign office, Baron von Schoen, is said to have promised the American ambassador that the American contracts were not to be affected. A thorough investigation of the files has shown no trace of such a promise. Baron von Schoen, to whom the aide memoire was consequently transmitted, together with the verbal explanations given by Ambassador Hill at its delivery, corroborated that he had talked to the ambassador about the potash law, after a luncheon given at his house on May 12, 1910, in honor of Col. Roosevelt. He emphasized, however, that his remarks were in accord with his note of May 11, 1910, which just then had been sent to Mr. Hill, and that he had referred the latter expressly to this note. In this note it is stated that the tax could be reduced by the Bundesrat only in so far that the prices for potash delivered after May 1, 1910, plus the tax, would not be higher than the prices prevailing prior to June 30, 1909. That conversation can not be regarded as an independent act but must be considered in connection with the note of May 11, 1910.

The scope of the potash law enacted by the Reichstag is the same as that of the two Government bills. The law intended to prevent a production exceeding the requirements of the world's markets and the willful waste of the national potash deposits. At the same time it will bar potash mines, individual mines as well as combinations of mines, from obtaining control of the entire potash production, from creating a monopoly and from eliminating the competition of other mines.

The scope of the potash law therefore is identical with the ends which the Government and the Congress of the United States had in view when the preservation of the natural resources of the nation was warmly recommended in the special message of the President of the United States to the American Congress of January 14, 1910. The law furthermore intends to prevent the formation of monopolies in order to restrict or eliminate competition, a tendency which found the strongest expression in the Sherman Antitrust Act. In order to attain these objects the following provisions are made:

To each potash mine is allotted a share of the total delivery of potash for the domestic trade as well as for export. The delivery of potash within the limits of the allotment is not taxed. A tax is levied upon deliveries in excess of the allotted quantity. The allotments are made by a board consisting of representatives of the Government and of the mine owners. The allotments are always made impartially and the total output is estimated on the basis of the actual demand of the previous year. The law provides in section 6 that the total output, and accordingly the apportionment to each mine, must be raised every year. The law further provides that the board of apportionment may during the course of the year raise the total output, and accordingly the apportionment to each mine. Thus no shortage of potash can occur and the required quantities for domestic trade or export are placed at the disposal of buyers free from taxation. In fact the apportionment board had in December,

1910, by virtue of this provision, already raised the total output as previously estimated for the period May 1 to December 31, 1910; accordingly the quantities apportioned to each mine for domestic trade and export have been increased, too.

The quantity needed each year to cover the total requirements of the American consumers is therefore guaranteed to the United States. The potash prices are by no means higher now than prior to the enactment of the law. The tax for excess delivery is levied no matter whether the apportionment for domestic or for foreign trade is exceeded. It is furthermore immaterial to which country the excess of the export apportionment is exported. The tax is an internal-revenue tax and according to the law is collected from the mine owner in Germany. The tax is not prohibitive, but puts a damper on overproduction. At all events all the better mines can, even when greatly exceeding their allotment, produce with a profit, although a small one. This proves that the potash law is in itself in no way a burden to the American consumer, and that the American contracts can be fulfilled, as far as the potash law is concerned, without loss to the American purchaser.

The burden of the tax would fall on the American buyers only if they bound themselves to pay the tax in their private contracts with the potash miner, in which case it would be a voluntary act on the part of the American purchasers, of which they must take the consequences. The Imperial Government can not be made responsible.

The question who finally has to pay the tax is yet open. According to the statements which in the fall of 1910 were made by the interested American parties and by the American official persons supporting them, the American opinion is that the tax has not been taken over by the American buyers. If this is correct the American buyers could get the potash contracted for at the low contract price; American interests then would not be affected in the least and there would be to all appearance no reason for an intervention on the part of the American Government. The Imperial Government does not consider itself competent to decide whether, according to the private contracts, the tax has to be paid by the American purchasers. This question can be settled only by the arbitration provided for by both parties in the contracts, the arbitrators being selected in such a way that American views will prevail. As long as it has not been decided by arbitration that the tax has finally to be paid by the American purchasers the Imperial Government can not recognize a legitimate cause for the American Government to intervene. The Imperial Government therefore proposes that the question by whom the tax, according to the private contracts, finally has to be paid should be submitted by the parties interested to the arbitrators provided for in those contracts. In case the arbitrators should decide against the American buyers the Imperial Government is willing to offer its good offices in order to find an equitable adjustment of the conflicting interests of the German and American parties. The German Government however emphasizes the fact that it prefers this offer only for reason of equity and to give the American Government a renewed proof of its friendly sentiments. It can not acknowledge that there is a legal basis for an American claim, for, as stated in the account of the history of the potash law, no contracts valid in law were made in the night June 30–July 1, 1909, but only informal stipulations, and, as their wording shows, between persons who were not authorized by the concerns they represented to enter into formal and valid contracts. The words are as follows:

> The above stipulations will be signed as a formal contract by the parties above mentioned [Kaliwerke Aschersleben and the American Agricultural Chemical Company] in the city of New York by the authorized representatives.

These stipulations became binding only in August, 1909, through their ratification by the authorized representatives of the contracting parties. At that time the introduction of a potash tax had been announced publicly by Minister Delbrück in his statement in the Reichstag on July 7, 1909. The contracts, formally ratified after the publication of this governmental statement, were therefore entered into with a full knowledge of the character of the intended legislation and with a view to counteract it.

Furthermore the business transaction in question are only a speculation, and the parties interested have not suffered an actual loss but claim compensation for a profit not gained, i. e., a purely speculative profit which they hope to draw from contracts concluded with a view to evading a law already announced. If the American Government should officially support these claims it would depart from the principles that have been followed by the European States for

the diplomatic support of claims, which, as has become known here, have on other occasions been recognized by the American Government. According to these principles diplomatic support is granted only to those that have suffered an actual loss. The American Government would not take these steps, contradictory to international principles, in the interest of American economic welfare but solely in the interest of a few trusts. In all probability these trusts, if not prevented by the potash law, would have ruined their less fortunate competitors, especially the Virginia-Carolina Chemical Co., which has no long-term contracts at low rates and which has heretofore furnished the potash supply for the South of the United States; and they would further have monopolized for themselves the entire potash trade of the United States. According to experience in the United States with trusts this would have meant a general increase in potash prices for the American consumer.

It is assumed in the aide memoire that law, and action of the Bundesrat, would allow the Imperial Government to comply with the American wishes, and remove the entire excess-delivery tax. This view is erroneous. The provision in question (sec. 46) reads as follows:

> The Bundesrat is authorized to reduce the tax provided for in section 26 for deliveries on account of contracts made before December 17, 1909, so much that the prices for quantities delivered after May 10, 1910, including the tax, will not be higher than prices prevailing before June 30, 1909.

It appears from former remarks of Ambassador Hill that he concluded from the words "not higher" that the reduction of the tax was limited only upward, not downward, and that therefore the tax might be reduced to 0, i. e., be entirely dispensed with. This opinion is erroneous. The law, on the contrary, by the words "The Bundesrat is authorized to reduce the tax of section 26 * * * so much," expressly fixes the limit to which a reduction downward is possible. According to the law a reduction below this limit is not possible. A change of the law or of the action by the Bundesrat is out of the question. Just as the American Government claims the right to refer, in answer to our claims, to internal American conditions, to acts of the American Congress and to American laws, it must recognize the right of the Imperial Government to regulate important internal questions according to German national demands, and to claim that laws that were passed by a large majority of the Reichstag are inviolable. Consequently there can be only an understanding that remains within the confines of the potash law. It would be entirely possible to reach such an understanding on the basis of the principles discussed in private conversation between Minister Sydow and Ambassador Hill. These guide-lines were the following:

1. The Aschersleben potash works transfer their contracts to the Potash Syndicate.
2. The Potash Syndicate pledges itself to make deliveries to the American firms within the limits of the allotment of the separate mines so that a tax for excessive delivery will not be due.
3. The American buyers consent to a reasonable increase of the prices contained in the Schmidtmann contracts.

At the discussions in Berlin an agreement had been reached concerning the provisions of 1 and 2. The question of the prices, however, was not settled. Since the parties could not reach an agreement concerning this point, it is proposed that both Governments come to an understanding as to a reasonable basis of prices that will take into account the interests of both parties.

The German Government is willing to propose for all potash the delivery of which falls under the excess-delivery tax, prices that would be lower than those actually paid by the American buyers prior to June 30, 1909. These prices would also be below the basis of prices possible in case the Bundesrat should make use of the privilege given by section 46 to reduce the excess tax. They would also be lower than the minimum prices established by the potash law, a settlement that is legally possible only by the transfer of the contracts to the Potash Syndicate as above referred to.

After reaching an understanding both Governments would have to cause their parties to accept it. It must be mentioned, however, that Mr. Schmidtmann, who was recently received by the President of the United States and has informed him, has interests directly opposite. He will probably not be inclined to give his assistance toward the reaching of the agreement desired by both Governments unless convinced that the American Government offers its hand only to a peaceful settlement of the differences.

As soon as by the decision of the arbitrators the obligation of the American contracting parties to pay the tax is established the Imperial Government is willing to enter into negotiations with the American Government upon the basis mentioned above.

BERLIN, *January,*[1] *1911.*

File No. 611.627/366.

The American Ambassador to the Secretary of State.

No. 893.] AMERICAN EMBASSY,
Berlin, February 8, 1911.

SIR: Referring to the memorandum of the German Government dated January, 1911, purporting to give a general review of the history of the Imperial potash law, I have the honor to make the following observations.

In the memorandum stress is laid upon the point that on July 7, 1909, Minister Delbrück publicly announced in the Reichstag the introduction of a potash duty, and that as the potash contracts were signed by the Americans after that date they were in full possession of full knowledge of the intended legislation. It is now contended that the present potash law is the fulfillment of that announcement, and that the American contractors have no reason to complain of it inasmuch as they had full knowledge of it before they signed the contracts.

Without attempting to characterize this form of statement in general terms, I beg to be permitted to point out that according to the official report of the transactions in the Reichstag, the only kind of tax considered on July 7, 1909, in the Reichstag, or referred to by Minister Delbrück, was an "export" tax on potash. Not only is it now contended that the present potash law imposes no export tax, but, on November 23, 1909, according to this memorandum itself, it is explicitly stated that, in reply to the inquiry of the American chargé d'affaires regarding the intention of introducing such an export tax, which he declared might unfavorably influence the negotiations relative to German-American commercial relations in view of the provisions of section 2 of the American tariff act, "there could be no question of an intention to introduce a potash export tax." It is submitted therefore if the declaration of Minister Delbrück in the Reichstag on July 7, 1909, can be considered as having any relation to the present potash law.

In referring to the attitude and action of the American Embassy regarding the potash law, the memorandum would convey the impression that no very serious objection was at any time made to the proposed law. The archives of the Department of State will show the untenable nature of that assumption. It is true that the embassy's memorandum of January 10, 1910, referred to the matter unofficially, as the embassy was instructed to do, but the memorandum expressed more than the hope that such a measure as was proposed would not be passed. It stated in terms that the measure if executed would involve "the virtual repudiation of a contract entered into with American citizens by limiting its duration from seven to two years

[1] Day not stated.

and by taxing the export to a point which substantially destroys the value of the contract," and the injustice of this was distinctly set forth. In referring to the embassy's note of February 4, 1910 [in pursuance of instruction of Feb. 3], it is not mentioned that inquiry was made if the proposed measure "contemplates a tax intended to fall upon a foreign purchaser of potash from the German mines, and if in any other manner the validity and value of the American contracts will be affected."

No notice whatever is taken of the note verbale of April 18, 1910 [in pursuance of instruction of Apr. 17], in which it is distinctly pointed out that disagreement between the American and German Governments would arise in case anything equivalent to an export duty should depreciate the value of the American contracts, at which the proposed legislation appeared to be directly aimed.

No mention whatever is taken of the embassy's note of May 5, 1910 [in pursuance of instruction of May 4], marked "Immediate," in which a formal remonstrance against the proposed legislation as unfriendly to American commerce was made, together with the statement that this legislation appears to be "specifically directed against the American contracts and designed to place new and unexpected burdens upon the American contractors." And again in this note it is stated that the American Government stands ready to use all its influence in the direction of harmonizing the interests involved and avoiding a conflict of views which will certainly arise if the American contracts are impaired.

Without further recital of the oral communications made in connection with these official documents, there certainly can be no doubt that the American Embassy repeatedly, during the months preceding the legislation finally passed, clearly and emphatically stated the injustice to American interests that would be effected by it, and as strongly as diplomatic courtesy permits, with due respect to the legislative independence of a country, urged the modification of the proposed measures or the adjustment of the interests involved in such a manner as to prevent injustice being done.

The German memorandum makes no reference to the fact that section 46 of the potash law was introduced at the last moment as a result of the repeated and strenuous efforts of the American Embassy to prevent injustice to the American buyers of potash; yet in the note of the German foreign office of May 11, 1910, it is stated that the concessions contained in that section were made in order as far as possible to do justice to the American contractors.

With regard to the assurance given by Baron von Schoen on May 12, 1910, that the American contracts would not be impaired, the first secretary of the American Embassy, Mr. Laughlin, was present upon the occasion, and although he did not hear the conversation he took down the telegram which embodied the substance of it, at the ambassador's dictation upon the spot. There is, however, no necessity for any controversy upon this subject, for the note of May 11, 1910, referred to in the memorandum of January 1911, might have proved satisfactory had the Bundesrat been disposed to carry out its terms, which however it afterward failed to do, entirely ignoring the options contained in the contracts, and making other modifications, not referred to in the note of May 11, which were not acceptable.

There are other points in the memorandum which might be corrected in detail, but those which have here been stated seem to me to be important to be considered, for it can not be maintained, on the one hand, that in July, 1909, the American contractors were warned that such legislation as has been passed would be passed, or, on the other, that the American Embassy did not strenuously oppose the legislation that has been passed with as much vigor and constancy as were consistent with diplomatic courtesy.

I have, etc.,

DAVID J. HILL.

File No. 611.627/344.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, February 7, 1911.

MY DEAR MR. AMBASSADOR: A week ago when by your excellency's handing me a communication in response to this Government's representation in the potash case made some weeks ago in Berlin the affair passed into a stage where active and expeditious negotiations became quite possible, you agreed with me that arbitration between the parties to the contracts would be unnecessary if the Americans interested should avow liability, and you were kind enough to undertake to endeavor to ascertain at once by telegraph, as a basis for further discussion, how much below the syndicate price of 1909 the Imperial German Government at this time saw its way clear to suggest as a price at which the American contracts could be met under the mode of adjustment suggested by your Government.

In recalling your attention to the keen desire of this Government to proceed with the utmost expedition to seek the earliest practicable settlement of the vexatious question now become the subject of diplomatic negotiation between the two Governments, I bespeak your excellency's earnest efforts to that desirable end.

I am, etc.,

P. C. KNOX.

File No. 611.627/358.

The Acting Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, February 11, 1911.

EXCELLENCY: I have the honor to inform your excellency that the Department is in receipt of information from the International Agricultural Corporation of New York to the effect that the corporation has been advised by a cable that the Imperial German Government has demanded from the management of the potash mine Kaliwerke Sollstedt, owned by the corporation, the payment of excess-production taxes into the Imperial Treasury on all potash shipped under the American contracts since May 28, 1910, payment to be made within 10 days. The amount involved is a very considerable sum, being in excess of $1,100,000, all of which has been paid under protest by the American contractors.

It is likely within your excellency's knowledge that this mine is wholly owned by American citizens, and that it makes no sales whatever of its products in the markets of Germany but exports its entire production to the United States under contracts now the subject of controversy. Consequently since the question of the imposition of this tax upon the Sollstedt mine is of the very essence of the negotiations now in progress between the United States and Germany, the Government of the United States is strongly of the opinion that, according to customary practice, no collection of excess-production tax from the Sollstedt or other mines on account of shipments under the American contracts should be required pending the present negotiations.

I am therefore constrained to urge your excellency to make this view of the Government of the United States known to the Imperial German Government by cable, and to request its acceptance of it to the end that the demand now made may be withdrawn at least until the present negotiations shall have reached a conclusion.

Accept, etc.,

HUNTINGTON WILSON.

File No. 611.627/362.

The German Ambassador to the Secretary of State.

IMPERIAL GERMAN EMBASSY,
Washington, February 15, 1911.

Mr. SECRETARY OF STATE: In reply to your excellency's note of the 11th instant, I have the honor to say, by direction of my Government, that nothing is known at either the foreign office or imperial treasury of a collection of the excess production tax in question on the potash output. The collection concerns the several States; in consequence the Imperial Government has in accordance with your excellency's wish entered into communication with the offices concerned, and begs to reserve an answer.

I further have the honor, in compliance with my Government's instructions, to submit the following to your excellency:

On the American side it has heretofore been declared that the American purchasers did not have to bear the excess production tax, as was stated in Ambassador Hill's note of June 9 of last year and in oral conversations had at Berlin. In a statement published on January 6 of this year in the press of this country, Messrs. Bradley, Brewster, and others take the same stand. It further appears from the same statement that the purchasers have declined to receive the surplus quantity, or only paid the taxes under protest.

In consequence my Government is of opinion that any declaration of the purchasers differing from the previous ones will not suffice, unless your excellency can supply me with a legally binding—say a notarial—declaration of the purchasers by which they expressly recognize their liability to the excess production tax, and say that this recognition is also made in regard to the sellers and intended for them. Otherwise, in my Government's opinion, arbitration must decide the question whether under the private contracts the tax is to be borne by the American purchasers.

As soon as one of the two foregoing conditions is fulfilled the Imperial Government will, in accordance with the memorandum handed to your excellency, be quite ready to propose prices for the products affected by the excess production tax. The ascertainment of these prices however will require some computations that will take some time for their completion.

Accept, etc.,

J. BERNSTORFF.

File No. 611.627/344.

The Acting Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, March 9, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of January 31, enclosing a memorandum containing the reply of the Imperial German Government to the representations on the potash question made by the American ambassador at Berlin under date of December 22, 1910, and January 13, 1911, and also receipt of your supplementary note on the same subject under date of February 15, 1911.

The urgent desirability of ending this controversy, which I believe is also felt by the Imperial German Government, and the equal urgency of relieving the great interests involved from the injurious situation in which they have unfortunately been placed, have dissuaded me, after much consideration, from entering at this time upon any elaborate response to the arguments presented by your excellency's communications under acknowledgment.

In thus abstaining, in order to save time, from now entering upon such prolonged discussions I must however ask your excellency to take due note of the fact that this course should by no means be understood as an admission of the validity of the contentions made. To show how far otherwise is the case it may suffice to say, for example, that the Government of the United States could not in any discussion allow to pass without refutation the intimation that its conclusions in relation to the German potash law and its effects on American interests were based upon incorrect information. Equally at variance with the understanding of this Government is the allegation that the Bradley-Schmidtmann contract was a mere stipulation and not a binding agreement. The actual terms set forth in the Bradley-Schmidtmann contract, as shown in the contract itself, now before the Department, are materially more extended than those quoted by your excellency, and are as follows:

> The above stipulations will be signed as a formal contract by the parties above mentioned as soon as possible, in the city of New York, by the authorized representatives. Such signatures, *and the specific performance of this contract are hereby guaranteed* through the signature of Robert S. Bradley, of Boston,, and Herman Schmidtmann, of Schloss-Grubhof (Salzburg).
>
> [Signed] ROBERT S. BRADLEY.
> H. SCHMIDTMANN.

It has moreover been impressed on the Department of State that Mr. Bradley bound himself personally to the performance of this contract and that he had the fullest possible authority to make it on behalf of the American Agricultural Chemical Co., delegated to him

by a special power of attorney dated June 7, 1909, which was duly authorized by a vote of its board of directors, executed by its president, witnessed by its counsel, attested and seal affixed by its secretary, acknowledged before a notary public, and viséed by the German consul general at New York.

Moreover, under the same power of attorney Mr. Bradley executed another contract on the morning of July 1, 1909, with Herr Bielmann, the representative of five of the largest potash mines in Germany, which had previous to the expiration of the syndicate combined into a pool for the purpose of selling potash in open competition, in case the syndicate was not re-formed by midnight of June 30. This Bielmann contract has been assumed and is now being fulfilled by the Potash Syndicate in strict conformity with its terms and conditions.

It would thus seem difficult to fail to recognize as legal and binding the Bradley-Schmidtmann contract when a similar contract with the Bielmann group has never been disputed nor denied.

It would be impossible to make slight reference to even a few of the contentions advanced by your excellency without seizing the opportunity to correct the strange misapprehension which appears so unfortunately to have arisen in regard to the relation and activities of Mr. Davis of the Department of State in connection with the potash controversy. Your excellency is well aware that the Americans interested made at Berlin last summer the most earnest efforts to reach a direct settlement, and that the candid and earnest desire of the Government of the United States for such settlement, and the conciliatory spirit that animated it, were the very reasons which induced the Department of State to lend to the Americans interested the good offices and counsel of the Embassy at Berlin, and of a trusted official of this Department whose sole duty has been to elucidate the actual facts and to endeavor to compound the respective contentions. It may be unnecessary here to allude to the regrettable impression that the efforts of those who went to Berlin for the purpose indicated were scarcely facilitated in quite the same spirit.

Turning to the practical question of how now to end the potash controversy, which I feel sure is the sincere desire of both Governments, I was glad to observe as the practical essence of your excellency's reply of January 31, the intimation that if it should be determined that the American purchasers were liable under their contracts for the payment of the excess production tax, then the Imperial Government would have the syndicate take over the contracts and supply the potash at a price below the syndicate price of 1909.

At the time of placing that communication in my hands your excellency personally concurred in my assumption that if the Americans admitted liability there would of course be no occasion for a private arbitration of the point of liability, even upon the assumption that this point were considered within the purview of the arbitration clause of the contract. Your excellency was also good enough to undertake at my request to seek by telegraph the earliest possible information as to what price the Imperial German Government would name as the basis for this Government's seeking an understanding with the Americans interested.

I had hoped through the plan suggested that a settlement would be reached much before the present date, but I observed from your ex-

cellency's note of the 15th ultimo that your Government would prefer a formal avowal of liability before proceeding to fix, as it has suggested, a price below the syndicate price of 1909 for the taking over and fulfillment of all the contracts.

While confessing to some disappointment that your excellency's Government should have seen fit to prefer to make this stipulation as a preliminary to final adjustment, I am glad at least to see established the fact that the way is now practically open to ready settlement.

Before proceeding further with the diplomatic negotiations, in the hope of expediting matters and because of the complexity of the business interests involved, I have now the honor to suggest that the Imperial German Government, which has reiterated its willingness to use its influence with the German interests concerned in order to effect an amicable settlement, now join with the Government of the United States to bring about an early conference, preferably in New York, between the representatives of the German syndicate, the Aschersleben and Sollstedt mines, and the accredited representatives of the American parties to the contracts, again to seek by direct settlement a prompt adjustment by which the contracts may be taken over and filled by the syndicate on the basis proposed in the memorandum of the Imperial German Government.

If this plan commends itself to your excellency's Government, the Department of State will urge upon the American representatives at such a conference the exercise of the utmost endeavors to reach a settlement that shall, in the light of the knowledge now before both Governments, be equitable and fair to all concerned; and the Government of the United States would implicitly rely in such case upon the Imperial German Government's bringing similar influence to bear upon the German interests, with whose cooperation a satisfactory adjustment in the spirit of conciliation should involve no serious obstacles.

I have the honor to request your excellency's earliest attention to the proposal now made, in the hope of early satisfactory results. Meanwhile the Government of the United States suspends further diplomatic action for the unfortunate case, which it hopes will not arise, of failure of the proposed conference or the inacceptability of its suggestion.

Accept, etc.,

HUNTINGTON WILSON.

File No. 611.627/373.

The Acting Secretary of State to the German Ambassador.

No. 416.] DEPARTMENT OF STATE,
Washington, March 17, 1911.

EXCELLENCY: Under date of February 11, 1911, I had the honor to request that no collection of excess-production taxes be made by the Imperial German Government from the Sollstedt potash mine, owned by the International Agricultural Corporation of New York, pending present negotiations looking to a settlement of the potash case.

I now have the honor to call to the attention of your excellency a statement from the said corporation to the effect that it is in receipt of a cable from its Sollstedt management advising that while the Imperial German Government appears willing to hold in abeyance the matter of the payment of taxes heretofore assessed, it will do so only upon condition that the mine furnish an acceptable bank guarantee of payment.

It is represented to the Department that all the assets of the Sollstedt mine and the International Agricultural Corporation are in Germany, and that they amply protect the obligation of the corporation. This being the case the said corporation does not understand why it should be required to provide any additional guarantee to meet its obligations in this transaction.

In the light of your Government's expressed willingness to facilitate an early settlement of the questions under negotiation, and since the obligation laid upon the International Agricultural Corporation essentially enters into the present case, I am constrained to request your excellency to be kind enough to obtain, by cable, a reconsideration of this requirement, with a view to withholding further action for the present in order that no new element of discord may at this stage be permitted to embarrass an early adjustment of the entire question.

Accept, etc.,

HUNTINGTON WILSON.

File No. 611.627/376.

The Acting Secretary of State to the German Ambassador.

[Note verbale.]

DEPARTMENT OF STATE,
Washington, March 21, 1911.

On the 9th instant the Acting Secretary of State had the honor to address to his excellency, the Imperial German ambassador, a note in which, with a view to ending the controversy between the two Governments regarding the potash question, a plan was suggested by which it was thought that that desirable result might be accomplished.

Supposing that by this time His Imperial German Majesty's Government, animated by a like desire and with the same spirit of friendliness that moved the Government of the United States in making the proposal, has given its earnest attention to the conciliatory plan of settlement suggested by the United States, the Acting Secretary of State has the honor to beg His Excellency Count von Bernstorff kindly to put him in possession as early as may be of the result of the prompt consideration which it is strongly hoped His Imperial Majesty's Government has given to the proposal.

File No. 611.627/380.

The German Ambassador to the Secretary of State.

IMPERIAL GERMAN EMBASSY,
Washington, March 29, 1911.

Mr. SECRETARY OF STATE: In reply to your excellency's courteous notes of the 9th and 17th instant, I have the honor respectfully to say that the Imperial Government, without departing from the position taken in the memorandum of January last, concurs in your excellency's suggestion that a settlement of the potash question be reached privately. The Imperial Government recommends that the conference of the parties in interest be held at Brussels, as being a neutral capital, and will use its influence with the German interests in favor of an agreement, if the United States Government will for its part declare that it has brought the American buyers and the Schmidtmann company around to a conciliatory attitude in the same sense.

As for the collection of the excess-production tax, it is, as I have already had the honor to inform your excellency, a question for the several States, which, under their existing laws, may not waive the giving of security. The collection was nevertheless temporarily suspended, but can not be much longer deferred on account of the impending expiration of the term of limitation. Furthermore, the suspension of the collection has already been attacked as unlawful in the Reichstag, and it is to be apprehended that the Reichstag that is to convene again on May 2 will order the immediate collection of the taxes.

Accept, etc.,

J. BERNSTORFF.

File No. 611.627/380.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 3, 1911.

EXCELLENCY: I have the honor to acknowledge your excellency's courteous note of March 29 communicating, etc.

Your excellency may feel assured of the desire on the part of the Government of the United States to see entirely eliminated that degree of friction which has been apparent in certain of the commercial relations of the United States and Germany between widely extended and important interests affecting the welfare of citizens of both countries. It is through a desire to promote in the most amicable manner the mutually advantageous trade between citizens of both countries that has from the first actuated me to endeavor most patiently to find a means acceptable to both Governments by which the present unfortunate divergence between those engaged in the production of potash in Germany and those having to do with the distribution and sale of potash in the United States might be composed to the satisfaction of all interested.

To this end I have urged upon the American contractors and the American owners of the Sollstedt mine, of which corporation Mr. Waldemar Schmidtmann is the president, that they approach the proposed conference in a conciliatory attitude, and I have the honor to state that the American interests have joined in an expression of their desire to meet the German representatives in such friendly spirit as will promote an adjustment of differences on a fair basis of settlement.

In view of the fact to which your excellency makes reference that the collection of the excess-production taxes which have been paid by the American interests under protest since May 28, 1910, can not be much longer deferred, on account of the impending expiration of the term of limitation, and in view of the apprehension expressed by you that the Reichstag convening on May 2 may order the immediate collection of these taxes, I am led to propose that the conference may be held during the present month not later than the 24th. After consultation with the American parties I respectfully urge the expediency as well as the propriety of naming the city of New York, instead of Brussels, as the place of conference. Opposed to the desire that naturally might suggest a neutral capital as the place of meeting is the apparently more important consideration of the inconvenience of the many American citizens interested, to whom the loss of time and the expenditure involved in a trip of their representatives to Brussels would be of material import. A number of them have heretofore vainly endeavored to reach a settlement in Berlin. They feel that it is asking too much of them now to take the time for a conference so far away from their occupations. As the case is presented to me it would appear that not less than 12, and possibly more, representatives on behalf of the Americans would be obliged to attend the conference as properly representing the American interests. These interests urge that New York be decided upon as the place of meeting. They represent that no more than two or three representatives of the German Potash Syndicate and the Aschersleben mine are likely to attend the conference. I am, therefore, impelled to request, as most proper under the circumstances, that New York City be agreed upon as the place of conference, and that the date be fixed as near the 24th of April as may be convenient.

I have the honor to suggest that the substance of this request, in which I trust that it will be quite consistent for your excellency to join, be cabled to your Government, in the hope that a final decision may be reached with the least possible delay.

Accept, etc.,

P. C. KNOX.

File No. 611.627/394.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, April 8, 1911.

MY DEAR MR. SECRETARY: With reference to your courteous note of April 3 and our last conversation about the impending conference between the parties interested in the potash controversy, I beg to

say that according to a telegram I just received the Imperial Government can not see its way to agree to this conference being held at New York. The German interested parties insisted that it should take place at Hamburg, they also having last year attended a conference at New York which did not lead to any result. The Imperial Government, however, hoping thus to meet the wishes of the United States Government, proposed to hold the conference at Brussels, and induced the German interested parties to accept this proposal. The above-mentioned telegram does not refer to the date of the impending conference. I therefore presume that the conference can take place as soon as we have reached an agreement about the place where it is to be held.

Believe me, etc.,

J. BERNSTORFF.

File No. 611.627/394.

The Acting Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 14, 1911.

EXCELLENCY: I have the honor to acknowledge receipt of your excellency's note of April 8, etc.

The committee on behalf of the American buyers holding contracts with the Aschersleben and Sollstedt mines, visited the department to-day and stated that if the conference was held at Brussels it would be impossible for all the various interests represented by this committee to be present at such conference, owing to the fact that this is the busy period of the year in their business. In view of this fact the committee requests that your excellency communicate at once, by cable, with the Imperial Government, and again set forth the desire of the committee that the conference be held in New York City, or, if necessary that a neutral point be selected, that Montreal be agreed to as the place of conference.

The committee also desires that your excellency make inquiry, by cable, as to whether the German Potash Syndicate will meet with them in conference, in the event that the representatives of the Aschersleben and Sollstedt mines are not parties to such conference.

I am transmitting the foregoing requests in the hope that your excellency will be able to arrange the details of the proposed conference in accordance thereto, realizing that in the interest of all concerned an early agreement should be reached both as to place and date of conference.

Accept, etc.,

HUNTINGTON WILSON.

File No. 611.627/418a.

The Acting Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, April 27, 1911.

EXCELLENCY: The American representatives of the potash-importing interests having informed the department that they are prepared to sail for Europe on the 2d or 3d proximo to attend the conference agreed upon for the settlement of the potash controversy, I have the honor to propose on their behalf that the conference open

at Brussels on May 15. Since one of the chief inducements for entering into the arrangement is to determine the official disposition of the moneys heretofore paid by Americans under protest, as excess production taxes, it would seem to be very desirable that the American understanding, that pending the conclusion of the conference these payments will not be collected into the imperial treasury but will be held for distribution in accordance with the conclusions that shall be reached by the conference, should be confirmed by your Government before the sailing of the American representatives; and in view of the near approach of that event I venture to express the hope that I may rely on your excellency's customary obliging kindness to obtain this confirmation promptly by cable.

Thanking your excellency in advance, etc.,

HUNTINGTON WILSON.

File No. 611.627/421.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, May 1, 1911.

MR. SECRETARY OF STATE: In reply to your excellency's courteous note of the 27th ultimo relative to the potash question I have, by direction of my Government, the honor to say that the German interests have been advised that Brussels has been chosen for the place and May 15 set for the date of the beginning of the conference.

The desire that the collection of the excess production tax be again postponed places the Imperial Government in a difficult position, as it is to be expected that the Reichstag will sharply criticize the non-collection as illegal.

At the same time my Government will, to accommodate the Government of the United States and facilitate the Brussels negotiations, postpone the forcible collection of the taxes from the potash mines until June 1 next. On legal grounds, however, it must immediately serve notice to pay on the mines.

The Imperial Government regrets its inability to postpone the collection beyond the 1st of June. Besides, the collection of the taxes already due under the law would not prevent the taxes from being later reduced in accordance with section 46 of the potash law and the remitted part thereof from being refunded.

Accept, etc.,

J. BERNSTORFF.

File No. 611.627/473.

The Commercial Adviser of the Department to the Secretary of State.

[Memorandum.]

BUREAU OF TRADE RELATIONS,
[WASHINGTON], *May 11, 1911.*

Acting on the instructions of Assistant Secretary Wilson, this morning I called the German Embassy by telephone, and was informed that * * * the ambassador would talk with me. This

the ambassador proceeded to do, stating that he was in receipt of a cable from his Government asking whether this Government would agree to the parties interested meeting in Berlin for the conference, instead of Brussels. The ambassador stated that the American parties were now in Berlin, and that it would be a matter of convenience to all concerned if the conference were held in that city. I said that if all the American parties were present and agreed to the conference in Berlin, this Government had no objection to the conference being held there. I was particular to state that it was the desire of this Government that all the American parties be present at the conference and that this expression of agreement was contingent upon all the interested Americans being present. The ambassador said that his understanding was that they were all present in Berlin. My authority for agreeing to a conference in Berlin was given to me by Assistant Secretary Wilson by telephone to-day, Mr. Wilson having stated explicitly that this Government would offer no objection to the suggested change in date and place of the conference, providing all the American representatives were present and agreeable to the suggestion.

M. H. DAVIS.

NOTE.—The conversation by telephone between Mr. Davis and the German ambassador, reported in the foregoing memorandum, is the last communication between the two Governments on the subject of the potash contracts. The following memoranda by Mr. Davis report subsequent unofficial statements of the result of the conferences. It was held at Hamburg in June instead of Berlin in May, as above indicated.

File No. 611.627/456.

Memoranda by M. H. Davis.

[Undated.] *Received August 31, 1911.*

The attached letter from Mr. C. H. MacDowell, president of the Armour Fertilizer Works, under date of August 26, is interesting. It appears from what Mr. MacDowell says and from what I have learned from others present at the conferences in Germany in June, that the conference to which the German Government agreed for the purpose of settling the controversy resulted simply in the Americans throwing over their low-priced contracts with the independent German mines and making new contracts with the German Potash Syndicate, with whom they had previously had no contracts.

There was apparently no settlement effected as to the excess tax which the Americans had paid under protest and which is to be refunded back to the 1909 prices. There is an understanding that the refunds will be made, but the settlement with respect to this feature lacks definiteness.

Should the independent mines be forced into the syndicate, as apparently contemplated by that organization, arrangements will probably follow for the refund of payments, but if the independent mines do not join I am under the impression that the Germans will defer settlement, perhaps indefinitely.

I think it was the understanding of the Department that all these questions should be settled at the conference and that all parties should be represented. This was the trend of all the diplomatic correspondence. The American company known as the International Agricultural Corporation had its representatives in Germany, but they were not called into the conference. No doubt negotiations are still pending between this particular company and the German syndicate. The numerous buyers in this country who had made their purchases of the independent mines through the International Corporation are not likely to get their share of the refund of taxes unless the German Government makes refund to the International Corporation, which it has thus far declined to do because the corporation's mine has not joined the syndicate.

M. H. DAVIS.

[Inclosure.]

CHICAGO, *August 26, 1911.*

MY DEAR MR. DAVIS:

Yours of August 17th noted.

The Hamburg negotiations did not involve the old contracts. A trade was made there between the American potash consumers and the syndicate for their requirements, subject to existing contracts, for a period of 5½ years. The contract prices are practically those prevailing in the spring of 1909. Buyers having no contracts in the way made purchases without reserve.

The International were not represented. I have no personal knowledge as to why they were not there. Mr. Schmidtmann was in Hamburg during the negotiations.

The penalty tax paid by some of the buyers under protest and which was in escrow, was collected by the German Government June 1. The understanding was that the Bundesrath would make a ruling whereby American buyers paying this penalty tax would receive a refund down to the 1909 price without admitting liability under their contracts. I am told no such ruling has been made by the Bundesrath. If one has been made it has been suppressed, probably for trading purposes.

The two larger companies were represented by their presidents. The writer represented the Armour interests. The Independent association was represented by Messrs. Moncure, Dempwolf, Lippincott, Brewster, and Lorenzo Wilson. Contracts were made by the four interests represented, the purchase on behalf of the Independents covering the requirements of their members as far as power had been given the committee.

Since the Hamburg meeting it is my understanding that negotiations have been carried on between the Aschersleben and Sollstedt mines with the Syndicate, with the Independents, and the A. A. C. Co. with a view of settling the old contracts. I have no personal interest in these negotiations and know nothing about how they are progressing. The small buyers to whom you refer, customers of the I. A. C., were not represented at Hamburg unless they belonged to the Independent association.

Yours very truly,

C. H. MACDOWELL.

File No. 611.627/457.

BUREAU OF TRADE RELATIONS,
DEPARTMENT OF STATE,
November 3, 1911.

This attached statement from the Financial Bulletin of Philadelphia with respect to the potash settlement between American contractors and German independent mines and the German syndicate is incomplete. It omits to state that of the $3,500,000 supercontingent tax paid by the Americans on their shipments of potash between May 28, 1910, and June 1, 1911, about 60 per cent is to be refunded to them. Such refund reduces the cost of the potash bought from the independent mines during the above-named period to a basis of $28.34 per ton of muriate, as against the syndicate price during that period of $34.10. Thus the intervention of the State Department has saved $5.66 per ton to the American contractors, for if the State Department had not intervened the only recourse open to the Americans would have been to avail themselves of the Bundesrath ruling, which would have permitted a reduction only to the syndicate price of $34.10. The terms of the settlement just completed give the Americans a price of $28.34, muriate basis, on their invoices during the year ending June 1, 1911. The payments that Americans must make to the independent companies as the price of the surrender of their contract is paid out of the other 40 per cent of the $3,500,000 supercontingent tax advanced by the Americans in accordance with the German law of May, 1910.

The actual results of the settlement are that the American contractors retain a substantial amount of the profits secured from the low-price contracts made before the potash law went into effect, and at the same time secure a refund sufficient not only to pay for the cancellation of the independent contracts but also to reduce the prices of their 1910–11 purchases.

The independent mines will reenter the syndicate, which organization will supply all American buyers under identical contracts. The monopoly, of course, will thus be reestablished and continue to control the American trade. Opportunity for buying potash, however, will not be restricted either in price or quantity. All will be treated alike as to price. Discounts will be allowed, regulated by the amounts of potash purchased. The syndicate announces that it intends to fix no restrictions on purchasers as to resale of potash salts, either as to quantities or prices.

M. H. DAVIS.

[Inclosure.]

Extract from article in Financial Bulletin, October 25, 1911.

Officials of one of the corporations identified with the potash trade announced on Saturday that an agreement had been reached between the American holders of contracts covering the delivery of German potash salts up to 1917 and the independent potash mines, whereby the Americans are to pay 2,100,000 marks, or approximately $525,000, for the cancellation of these contracts. When this agreement is signed the famous potash war that began on the night of June 30, 1909, will terminate. The Americans, forced to the wall with the

aid of the German Government, will be compelled to buy their potash at prices equivalent to those that prevailed previous to the breaking up of the syndicate over two years ago. The only advantage that has been secured in one of a slight increase in the discount allowed certain large buyers on long-time contracts. The cost of the litigation involved in the controversy will amount to a large sum, as very prominent attorneys were identified with the matter from time to time. * * * The aid of the State Department was evoked last year in an endeavor to have the syndicate recognize the independent mine contracts, and at the time of the last tariff revision threats were made that as American commerce was being discriminated against, retaliation against Germany in the form of a maximum tariff should be put in force. The matter was eventually dropped by Washington.

File No. 611.627/458.

BUREAU OF TRADE RELATIONS,
DEPARTMENT OF STATE,
November 4, 1911.

Referring to my memorandum of November 3, wherein I sought to show the amount of saving effected for the American buyers of potash through the settlement recently made with the German Syndicate and the independent German mines, I now desire to call attention to a statement made by Mr. Robert S. Bradley in a letter just received from him.

Mr. Bradley had evidently noted the published statements as they appeared in the Boston News Bureau and the Financial Bulletin of Philadelphia. He takes exceptions to the conclusions drawn with respect to the actual savings of the Americans through the terms of the recent settlement. He cites the case of the American Agricultural Chemical Co., which he says had paid out in penalty or supercontingent taxes $710,371 of the $3,500,000 so paid by the entire American interests. The A. A. C. company obtains a refund from the German Government to the amount of $568,157. From this refund a payment must be made to the Aschersleben (independent) mine for the cancellation of the A. A. C. company contract with it, and this payment, together with the expenses incident to the "fight" made by the A. A. C. company amounts in all to $340,000. Thus, so far as the A. A. C. company is concerned, it has left $228,157 as the net refund of the taxes. Having paid penalty taxes to the amount of $710,371 and obtained a refund, net, of only $228,157, Mr. Bradley reckons that the balance, being the sum of $482,214, represents the net amount of money that his company has had to pay out in consequence of the German potash law, and of course he is right in this calculation. This sum, $482,214, equals $12.54 per ton on the potash received by the A. A. C. company under its contract with the independent mine, which, added to the original contract price of $20 per ton, makes the potash for the period of one year subsequent to the passage of the law cost the A. A. C. company, net, $32.54 per ton, muriate basis. From the published statements above referred to and which apparently had been authorized by parties familiar with the settlement, I had reached the conclusion that $28.34 per ton represented the actual settlement price, muriate basis, for

invoices since May 28, 1910. The Department has had no official statement and in preparing my memorandum I have had to depend upon the published statements that have appeared, presumably emanating from reliable sources. According to Mr. Bradley's figures these published statements have not been reliable. Instead of the independent mines receiving their settlement money from the supercontingent fund paid in by the Americans, 40 per cent of this fund was first deducted for the uses of the German Government and the German Syndicate, and out of the other 60 per cent refunded to the Americans the latter have had to pay the independent mines their price for the cancellation of the 1909 contracts.

The German Government or the German Syndicate seems to have worked along Bismarck's lines of "real politics" in putting through this settlement, if they have retained as their share of the rake-off 40 per cent of the $3,500,000 supercontingent tax paid in by the Americans. This 40 per cent amounts to $1,400,000, while the Americans get back $2,100,000. They are obliged to pay out again the greater part of this sum in order to obtain release from the mines with whom they made the low-priced contracts which the German potash law rendered untenable.

M. H. DAVIS.

PRESENTATION OF A STATUE OF GEN. VON STEUBEN TO THE GERMAN EMPEROR AND THE GERMAN PEOPLE BY THE UNITED STATES.

File No. 862.413St4/9.

The Secretary of State to the American Ambassador.

No. 493.] DEPARTMENT OF STATE,
Washington, November 23, 1910.

SIR: I inclose a copy of an act of Congress, approved June 23, 1910, authorizing the execution, under direction of the Secretary of State and the Joint Committee on the Library, of a bronze replica of the statue of Gen. von Steuben (the erection of which in Washington had been previously authorized by Congress), for presentation to His Majesty the German Emperor and the German Nation, in recognition of the gift of the statue of Frederick the Great presented by the Emperor to the people of the United States.

Previous to the passage of this act the Department had been informally advised by the Imperial German ambassador at this capital that the passage of the act would be very agreeable to His Majesty the German Emperor provided only that the measure passed both Houses without giving rise to any criticism or disagreement. The act was so passed.

The Department is now about to contract with the artist of the von Steuben statue, Mr. Albert Jægers, for the execution of a replica in accordance with the provisions of the act of Congress. The act appropriates the sum of $5,000 for this purpose but does not provide any sum for the execution of a pedestal to support the statue. It appears evident to the Department that the sum is in-

sufficient for that purpose and, in view of the fact that the statue of Frederick the Great, presented to the people of the United States by the German Emperor, was erected upon a pedestal provided by this Government out of the appropriation made by the sundry civil act approved Apr. 28, 1904, for the erection and dedication of the above-mentioned statue of Frederick the Great, it is presumed that the German Government would be willing to provide for the execution of the pedestal.

The Department will be gratified if you will ascertain the views of His Majesty the German Emperor on this point. You will also inquire where the German Government wishes the statue delivered, and as to the place it proposes for the erection of the replica.

The Department will at a later date furnish you with information as to the dimensions of the statue, which will enable the German Government to determine on the proper form of pedestal.

I am, etc., For the Secretary.
ALVEY A. ADEE.

[Inclosure.]

An Act for the erection of a replica of the statue of General Von Steuben.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the expenditure of the sum of five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, authorized to be made under the direction of the Secretary of State and the Joint Committee on the Library for the erection of a bronze replica of the statue of General Von Steuben authorized to be erected in Washington; said replica to be presented to His Majesty the German Emperor and the German Nation in recognition of the gift of the statue of Frederick the Great, presented by the Emperor to the people of the United States.

Approved, June 23, 1910.

File No. 862.413St4/22.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 6, 1911.

Instructs him to ascertain whether the appointment of the Hon. Richard Bartholdt as the President's representative to present the Steuben statue to the Emperor and the German Nation is acceptable to the German Emperor.

KNOX.

File No. 862.413St4/24.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, May 30, 1911.

The German Emperor is agreeable to the appointment of Hon. Richard Bartholdt as the special representative of the President to present the statue of Gen. Von Steuben.

HILL.

File No. 862.413St4/24.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 31, 1911.

Ascertain whether the appointment of C. P. Wolfram in addition to Bartholdt as the President's representative is agreeable to the German Emperor.

HALE.

File No. 862.413St4/34.

The American Ambassador to the Secretary of State.

No. 974.] AMERICAN EMBASSY,
Berlin, June 13, 1911.

SIR: With reference to my cable of May 30 and to previous correspondence, I have the honor to inform you that I have received to-day a note from the imperial acting secretary of state for foreign affairs in which he informs me that His Majesty the Emperor has now decided definitely upon the square in front of the City Palace at Potsdam as the place where the statue shall be erected. The acting secretary of state then requests me to inform him in due season of the date of the arrival of the bronze replica in Germany and of its transportation to Potsdam.

I have, etc.,

DAVID J. HILL.

File No. 862.413St4/32.

[Telegram—Paraphrase.]

Berlin, June 20, 1911.

Reports that September 2 is proposed by the Emperor as the date for the presentation of the statue of Gen. von Steuben; also that the appointment of C. P. Wolfram as special representative of the President is agreeable to the German Emperor.

HILL.

File No. 862.413St4/59.

The German Emperor to the President.

[Telegram.]

POTSDAM, *September 2, 1911.*

The replica of the Steuben statue has just been unveiled. For myself and on behalf of the German people I thank you most heartily for this beautiful present manifesting so happily the friendship between the German and the American nations.

WILLIAM,
Imperator, Rex.

File No. 862.413St4/59.

The President to the German Emperor.

[Telegram.]

THE WHITE HOUSE,
Washington, September 2, 1911.

I cordially appreciate your courteous telegram of to-day's date announcing the unveiling of the replica of the Steuben statue and conveying your thanks and those of the German people for this present transmitted in virtue of the joint resolution of the Congress of the United States.

I shall take great satisfaction in communicating Your Majesty's telegram to the Congress of the United States at the opening of its next session in December next, as an evidence of the cordial relations which have ever subsisted between the United States and the German Empire.

WILLIAM H. TAFT.

GREAT BRITAIN.

INTERNATIONAL PRIZE COURT—CONVENTION XII OF THE SECOND HAGUE PEACE CONFERENCE AND ADDITIONAL PROTOCOL THERETO.[2]

File No. 500.A2a/571.

The American Ambassador to Germany to the Secretary of State.

[Extract.]

No. 871.] AMERICAN EMBASSY, *Berlin, December 29, 1910.*

SIR: With reference to your instruction of October 26 last, No. 479,[3] on the subject of the signing of the additional protocol to the International Prize Court Convention, I have the honor to transmit herewith enclosed copies, with translations, of two foreign office notes which I have lately received[4] in reply to the communication I hastened to make to the secretary of state for foreign affairs in pursuance of your instructions.

The first note states that the Imperial German Government concurs in the view of the Government of the United States of America that concerted action by the diplomatic representatives of Germany, the United States, France, and Great Britain is the most effective method of influencing the signatory powers of the Prize Court Convention, which have not yet signed the additional protocol, to accept the same, and that the imperial representatives have accordingly received the same instructions as were issued to the representatives of the United States.

In the opinion of the German Government it is considered possible that there may exist objections to the acceptance of the Additional Protocol arising from the apprehension that obligation to ratify the Prize Court Convention might be construed from the signing of this protocol, and that in consideration thereof it would be advisable to cause it to be pointed out to the Governments in question by the representatives of the four powers that no such obligation is incurred, as a matter of course, inasmuch as the signing of the protocol would have no broader import than the signing of the Prize Court Convention had at the time. Therefore those Governments which have not reached a decision as yet in regard to the ratification of the convention would also be able to sign the protocol without objection. The Imperial representatives have been furnished with instructions to this effect.

I have, etc.,

DAVID J. HILL.

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[1] See Foreign Relations 1907, pp. 1253 and 1285; Charles' Treaties, vol. 3, p. 248.
[2] See Foreign Relations 1910, p. 631; Charles' Treaties, vol. 3, pp. 248 and 262.
[3] See Foreign Relations, 1910, p. 635. (No. 1409 to Great Britain.)
[4] Not printed.

File No. 500.A2a/591a.

The Secretary of State to the Minister of Nicaragua.

No. 1.] DEPARTMENT OF STATE,
Washington, January 19, 1911.

SIR: On October 18, 1909, the Secretary of State transmitted an identic circular note[1] to the powers participating in the London Naval Conference[2] proposing that the Prize Court Convention be modified in such a way as to remove the constitutional objection to it on the part of the United States. Briefly stated, the objection to the convention in its actual [original] form consisted in the fact that an appeal might be taken from a decision of the Supreme Court of the United States, and that the judgment of the Supreme Court might be modified or reversed on appeal. The Department was willing to submit the question involved in the judicial determination to the examination of the International Prize Court and to give effect to its findings provided the findings were in the form of an award of damages, leaving untouched or unaffected the validity of the judgment within the jurisdiction of the United States. The proposal of the United States was that the proceeding before the prize court should be *de novo*, and that the question involved in the controversy should be tried and determined both as to the law and the fact without reference to the national judgment.

As a result of negotiations, particularly with the original proposers of the Prize Court Convention, it was determined to draw up an additional protocol to be signed by the signatories of the original convention, to be ratified by them and the ratifications of the additional protocol and the original convention to be deposited at one and the same time at The Hague. The additional protocol was to form an integral part of the original convention and the convention was to be modified in accordance with the provisions of the additional protocol. As modified the Department believed that this Government could accept the prize court and participate in its beneficent operations.

On May 24, 1910, the Netherlands minister of foreign affairs transmitted the additional protocol to the signatories of the original convention with the request that their diplomatic representatives accredited to The Hague should be instructed to sign the protocol during the month of September, and on September 19, 1910, the protocol was signed by the United States, Germany, Argentine, Austria-Hungary, Denmark, Spain, France, Great Britain, Japan, Norway, Netherlands, and Sweden. Twenty-eight of the thirty-four signatories of the Prize Court Convention have already approved the protocol. The Dutch minister of foreign affairs stated that he had received no intimation of any objection to the additional protocol and he believed that it would be approved by the various signatories of the original convention during the course of the year.

The Department, however, is unwilling to transmit the additional protocol to the Senate, as it desires to do at the present session, or to request the approval of the original convention, unless informed

[1] Foreign Relations 1910, p. 597.
[2] The identic circular note was not presented to Nicaragua on account of the disturbed conditions in that State at the time. That omission is cured by the note here printed.

that all the signatories of the original convention have either approved the protocol or have expressed their intention to do so in the very near future, as the ratification of the protocol and the original convention, as well as the Declaration of London which supplements the original Prize Court Convention, would fail of their purpose unless the protocol were ratified by the signatories to the original convention. This Government is, however, exceedingly anxious to cooperate in the establishment and operation of the International Court of Prize, but feels that it must be assured of the acceptance of its proposed modification as set forth in the additional protocol before it can take any steps toward securing the approval of the instruments by the Senate.

Copies of the draft of the additional protocol and of the circular note of the Netherlands Government of May 24, 1910, are inclosed for the information of your Government, and I have the honor to ask that you will at once bring to its attention the matter of the adhesion of the Republic of Nicaragua to the additional protocol, and urge upon it the importance which this Government attaches to Nicaragua's acceptance of the additional protocol which will render the cooperation of the United States possible.

The Department will be gratified if you could receive by telegraph the advices of your Government as to its disposition to accept the protocol.

Accept, etc.,

P. C. KNOX.

File No. 500.A2a/598.

The Secretary of State to the American Ambassador to Great Britain.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 1, 1911.

The Netherlands Government informs this Government that Great Britain is unable to ratify the additional protocol to the Prize Court Convention before the coronation. The ambassador is directed to ascertain whether the Department has been correctly informed, to express regret at the delay, and to inform the British foreign office that this Government desires to submit the protocol to the Senate during the present session.

KNOX.

File No. 500.A2a/612a.

The Secretary of State to the President.

DEPARTMENT OF STATE,
Washington, February 1, 1911.

To the PRESIDENT:

I have the honor to submit for transmission to the Senate, if deemed proper, an additional protocol to the convention concluded at The

Hague on October 18, 1907, providing for an International Prize Court. This convention, together with other acts of the Second International Peace Conference, held at The Hague from June 15 to October 18, 1907, was transmitted to the Senate by the President on February 27, 1908.

Consideration of that convention has, however, been postponed by the Senate, because by the terms thereof the proposed International Prize Court would sit as a court of appeal, and might thus pass upon decisions of the Supreme Court of the United States, which are final under the provisions of the Constitution of the United States.

The additional protocol, now submitted, was suggested by the original proposers of the International Prize Court Convention, in order to remove the constitutional objection to the approval of that convention, and thus to permit the ratification of the convention, as amended by the additional protocol. By virtue of the additional protocol the original question at issue, not the national judgment, may be submitted to the judgment of the International Prize Court. It is hoped that it will be found to have accomplished that purpose.

The additional protocol is to be signed by all the signatories of the International Prize Court Convention, and is to form an integral part of that convention. It has already been approved by 29 of the 33 signatories of the convention, and it is confidently expected that it will be accepted by all.

The Government of the Netherlands has expressed a desire that the convention and the additional protocol should be ratified by the powers, and their ratifications of both be deposited at The Hague in the month of February, 1911. It has, therefore, become advisable that, if possible, action should be taken by the Senate during its present session.

It will be recalled that the Government of Great Britain objected to Article VII of the International Prize Court Convention on the ground that the law to be administered by the proposed court, in accordance with the provisions of that article, was not sufficiently clear and definite, and that, in order to secure an agreement upon the most important principles of law to be administered by the court, under that article, the British Government proposed a conference of representatives of the leading maritime powers at London.

This conference met there on December 2, 1908, and drafted in the French language a declaration concerning the laws of naval warfare, generally known as the Declaration of London, which was signed on February 26, 1909.

This Government was represented at that conference, and its delegates signed the declaration, which was transmitted to the Senate by the President on April 21, 1909. It is recommended that consideration of the declaration be postponed until a uniform translation of the French text is agreed upon by the United States and Great Britain.

The adoption of the additional protocol is deemed necessary to enable this Government to ratify the convention, and the early and simultaneous consideration, therefore, of the original convention and the additional protocol would appear advisable.

I am fully persuaded, as was my predecessor in his report to the President of February 26, 1908, submitting the Prize Court Convention, that the establishment of the International Court of Prize and

the services which it may be confidently expected to render in determining and safeguarding neutral rights in case of war will prove one "of the greatest advances made towards the reasonable and peaceful regulation of international conduct," and will directly tend to diminish the probability of the extension of war to other powers than the belligerents already unhappily engaged therein.

Respectfully submitted.

P. C. KNOX.

Resolution of the Senate, February 15, 1911.[1]

IN EXECUTIVE SESSION,
Senate of the United States.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the convention for an international prize court signed at The Hague on the 18th day of October, 1907, and at the same time to the ratification, as forming an integral part of the said convention, of the protocol thereto, signed at The Hague on the 19th day of September, 1910, and transmitted to the Senate by the President on the 2d day of February, 1911: *Provided*, That it is the understanding of the Senate and is a condition of its consent and advice that in the instrument of ratification the United States of America shall declare that in prize cases recourse to the International Court of Prize can only be exercised against it in the form of an action in damages for the injuries caused by the capture.

File No. 500.A2a/677.

The Netherlands Minister to the Secretary of State.

[Translation.]

No. 825.] LEGATION OF THE NETHERLANDS,
Bar Harbor, August 14, 1911.

Mr. SECRETARY OF STATE: By order of my Government I have the honor to inform your excellency that the additional protocol to the convention relative to the creation of an International Prize Court has now been signed by all the States signatory to the said convention. Copies of the additional protocol will be placed at your excellency's disposal in the very near future.

Be pleased, etc.,

J. LOUDON.

CORONATION OF HIS MAJESTY KING GEORGE V.

File No. 841.001G29/4.

The British Chargé d'Affaires to the Secretary of State.

No. 236.] BRITISH EMBASSY,
Washington, November 28, 1910.

SIR: By instruction of His Majesty's principal secretary of state for foreign affairs I have the honor to transmit to you herewith a copy of a proclamation[2] by the King, in which the date of His Majesty's coronation is fixed for the 22d of June next.

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[1] Charles' Treaties, p. 262.

[2] Not printed.

It would be pleasing to the King to receive as his guest a representative of the President of the United States to attend the ceremony. I am therefore instructed to inquire of you whether it would be convenient and agreeable to the President to be represented on the occasion, and if so I should be glad to learn in due course whom he would propose to designate for the purpose, in order that arrangements may be made for his reception.

I have, etc.,

N. MITCHELL INNES.

File No. 841.001G29/10.

The British Ambassador to the Secretary of State.

No. 20.] BRITISH EMBASSY,
Washington, February 2, 1911.

SIR: With reference to Mr. Innes's note of November 28 last informing you of the date of the King's coronation, and inviting a representative of the President of the United States to attend the ceremony, I have the honor, under instruction from His Majesty's principal secretary of state for foreign affairs, to inform you that the King has decided that the State visits are to commence on Monday the 19th of June next and terminate on Wednesday, the 28th of that month.

I am, etc.,

JAMES BRYCE.

File No. 841.001G29/12.

The British Ambassador to the Secretary of State.

No. 28.] BRITISH EMBASSY,
Washington, February 17, 1911.

SIR: I have the honor to inform you that the King has approved of a naval review being held at Spithead on Saturday the 24th of June on the occasion of His Majesty's coronation, and of one man-of-war from every maritime power being invited to attend.

I have the honor, under instructions from His Majesty's principal secretary of state for foreign affairs, to communicate this invitation to the United States Government, through you, with the request that, in the event of their accepting it, they will be good enough to communicate the name of the ship which will be sent.

His Majesty's Government regret that on account of space it is not possible to invite more than one ship of each power to take part in the review.

I have, etc.,

JAMES BRYCE.

File No. 841.001G29/15.

The Acting Secretary of State to the British Ambassador.

No. 1111.] DEPARTMENT OF STATE,
Washington, March 18, 1911.

EXCELLENCY: Referring to your No. 28 of the 17th ultimo, extending an invitation from your Government to the Government of the United States to have a man-of-war present at the naval review to be held at Spithead on Saturday the 24th of June on the occasion of

the coronation of His Britannic Majesty, George V, I take pleasure in informing you of the receipt of a letter from the Secretary of the Navy, dated March 9, 1911,[1] in which he states that the U. S. S. *Delaware* has been designated to represent this Government on that occasion.

I have, etc.,

HUNTINGTON WILSON.

File No. 841.001G29/4.

The Secretary of State to the British Ambassador.

No. 1145.] DEPARTMENT OF STATE,
Washington, May 5, 1911.

EXCELLENCY: Upon its receipt I had the honor to lay before the President Mr. Innes's note of November 28 last in which he was so good as to make known to me that it would be pleasing to His Majesty the King to receive as his guest on the occasion of His Majesty's coronation, the 22d of June next, a representative of the President of the United States to attend the ceremony.

The President, highly honored and gratified by this courteous consideration of His Majesty, has charged me to inform you in reply to the inquiry of Mr. Innes's note that it will be most agreeable to him to meet the pleasure of His Majesty and that to this end he has selected Mr. John Hays Hammond, one of our distinguished citizens, as ambassador on special missions to represent the Government of the United States at the ceremony attending the coronation.

Maj. Gen. Adolphus W. Greely, United States Army, retired, and Rear Admiral Charles E. Vreeland, United States Navy, representatives of the War and Navy Departments, respectively, will accompany Mr. Hammond to assist him in this mission, and Mr. William Earl Dodge, of New York, will attend Mr. Hammond as secretary of the special embassy.

I have, etc.,

P. C. KNOX.

File No. 841.001G29/42.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, June 1, 1911.

DEAR MR. SECRETARY: I have received the following telegram from the foreign office with regard to the arrangements as regards exchange of visits and salutes by commanders of foreign warships at Portsmouth on the occasion of the coronation of His Majesty King George V.

CORONATION.

Admiralty propose following arrangements at Portsmouth as regards exchange of visits and salutes:

All foreign flags and representatives of captains to meet at Admiralty House, Portsmouth, residence of commander in chief at 11 a. m., Tuesday, June 20. Commander in chief will make mutual presentations of all those who would otherwise make and return visits on each other. This meeting to be regarded

[1] Not printed.

as fulfilling all formal requirements as to exchange of visits. Salutes to be limited to, firstly, salutes to the national flag on arrival to be returned by shore battery; secondly, salutes to flag of commander in chief which will be returned by H. M. S. *Lord Nelson*. All salutes to other flag officers present (British and foreign) and all personal salutes (such as military and consular officers paying visits) to be waived.

I should be very grateful if you would communicate the substance of this letter to the competent Department of your Government in order that His Majesty's Government may be informed at the earliest opportunity whether these arrangements will suit the convenience of your Government and receive their concurrence.

I am, etc.,

JAMES BRYCE.

File No. 841.001G29/44.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, June 6, 1911.

MY DEAR MR. AMBASSADOR: I have your letter of the 1st instant giving the text of a telegram received by you from the British foreign office proposing certain arrangements for the exchange of visits and salutes by the commanders of the foreign war vessels at Portsmouth upon the occasion of the coronation of His Majesty, King George V, and in reply beg to say that I am informed by the Secretary of the Navy that the arrangements suggested are entirely satisfactory to his Department.

I am, etc.,

P. C. KNOX.

File No. 841.001G29/49A.

The President to His Majesty King George V.

[Telegram.]

THE WHITE HOUSE,
Washington, June 22, 1911.

On this auspicious occasion I take sincere pleasure in extending to Your Majesty cordial felicitations in the name of the people of the United States and in my own, and in expressing the cherished hope that under your guiding influence the British dominions may flourish and prosper. I assure Your Majesty of my best wishes for your personal welfare and that of Your Majesty's family and for the continuance of the friendly relations existing between Great Britain and the United States.

W. H. TAFT.

File No. 841.001G29/53.

His Majesty King George V to the President.

LONDON, *June 22, 1911.*

I heartily thank you and the people of the United States for the very kind congratulations which you offer me on this great and

solemn day, and for the good wishes which you express for the prosperity of the British dominions and for the welfare of myself and my family. I heartily reciprocate your wishes that the friendly relations between the United States and my country may ever continue.

GEORGE, R. I.

File No. 841.001G29/66.

The British Ambassador to the Secretary of State.

No. 168.] BRITISH EMBASSY,
Seal Harbor, Me., August 28, 1911.

SIR: I have the honor, under instructions from His Majesty's principal secretary of state for foreign affairs, to transmit to you herewith a letter addressed by His Majesty the King to the President of the United States of America in answer to letters from the President delivered to His Majesty by the Hon. John Hays Hammond on the occasion of his coronation.

I venture to request you to be so good as to cause the letter to be delivered to its high destination.

A copy of His Majesty's letter is also inclosed.

I have, etc.,

JAMES BRYCE.

[Inclosure.]

His Majesty King George V to the President.

George, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India, &c.

To the President of the United States of America, sendeth greeting:

Our Good Friend: We have received from the hands of the Hon. John Hays Hammond, the letter which you addressed to us on the 12th day of May last, and in which you convey to us your cordial congratulations and good wishes on the occasion of our coronation and that of our beloved consort.

We request you to accept our warmest thanks for this token of friendship and regard, which we have received with the greatest pleasure, and we desire also to thank you for the presence at our court of the distinguished representative who has been specially accredited to us in honor of this occasion.

We cordially reciprocate the sentiments of friendship and good will which you are pleased to express on our behalf, while we assure you of our hearty wishes for your personal welfare and prosperity and that of the great Republic over which you preside.

And so we commend you to the protection of the Almighty.

Given at our court at Dublin Castle, the 10th day of July, one thousand nine hundred and eleven, in the second year of our reign.

Your good friend,

(Signed) GEORGE R. I.
(Countersigned) E. GREY.

File No. 841.001G29/66.

The Acting Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, September 7, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 28th ultimo, inclosing a letter addressed by His Majesty the King to the President acknowledging letters from the President

which were delivered to His Majesty by the Hon. John Hays Hammond on the occasion of His Majesty's coronation.

I have the honor to advise you in reply that the department will take pleasure in transmitting the letter to its high destination.

I have, etc.,

HUNTINGTON WILSON.

PRESERVATION AND PROTECTION OF FUR SEALS—TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN AND CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS.

TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN.

Signed at Washington February 7, 1911; ratification advised by the Senate February 15, 1911; ratified by the President March 6, 1911; ratified by Great Britain April 20, 1911; ratifications exchanged at Washington July 7, 1911; proclaimed December 14, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty between the United States of America and the United Kingdom of Great Britain and Ireland providing for the preservation and protection of fur seals, was concluded and signed by their respective plenipotentiaries at Washington on the seventh day of February, one thousand nine hundred and eleven, the original of which treaty is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous of adopting effective measures for the preservation and protection of the fur seals, have resolved to conclude a treaty for that purpose and to that end have named as their plenipotentiaries:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States; and

His Britannic Majesty, the Right Hon. James Bryce, O. M., his ambassador extraordinary and plenipotentiary at Washington;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

The high contracting parties mutually and reciprocally agree that their citizens and subjects, respectively, and all persons subject to their laws and treaties, and their vessels shall be prohibited while this article remains in force from engaging in pelagic sealing in that part of the Behring Sea and north Pacific Ocean north of the thirty-fifth degree of north latitude and east of the one hundred and eightieth meridian, and that every such person or vessel offending

against this prohibition may be seized and detained by the naval or other duly commissioned officers of either of the high contracting parties, but they shall be delivered as soon as practicable to the authorities of the nation to which they respectively belong, who alone shall have jurisdiction to try the offense and impose the penalties for the same, the witnesses and proof necessary to establish the offense being also sent with them, or otherwise furnished to the proper jurisdictional authority with all reasonable promptitude; and they agree, further, respectively, to prohibit during the same period the use of any United States or British port by any persons for any purposes whatsoever connected with the operations of pelagic sealing in said waters, and to prohibit during the same period the importation or bringing of any fur-seal skins taken in such pelagic sealing into any United States or British port, and by the necessary legislation and enforcement of appropriate penalties thereunder to make such prohibitions effective.

Such prohibitions, however, shall not apply to Indians dwelling on the coasts of the territory of the United States or of Great Britain and carrying on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled wholly by paddles, oars, or sails, and manned by not more than five persons each, in the way hitherto practiced by the Indians, without the use of firearms, provided such Indians are not in the employment of other persons, nor under contract for the delivery of the skins to any person.

ARTICLE II.

The United States agrees that one-fifth ($\frac{1}{5}$) in number and in value of the total number of sealskins taken annually upon the Pribilof Islands, or any other islands or shores of the waters above defined, subject to the jurisdiction of the United States, to which the seal herd now frequenting the Pribilof Islands hereafter resorts, shall be delivered at the end of each season to an authorized agent of the Canadian Government in the Pribilof Islands: *Provided, however*, That nothing herein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose such restrictions and regulations upon the total number of skins to be taken in any season and the manner and times and places of taking them as may seem necessary to protect and preserve the seal herd or to increase its numbers.

ARTICLE III.

It is further agreed that as soon as this article goes into effect the United States shall pay to Great Britain the sum of two hundred thousand dollars ($200,000) as an advance payment in lieu of such number of fur-seal skins, to which Great Britain would be entitled under the provisions of this treaty, as would be equivalent to that amount reckoned at their market value at London at the date of delivery, before dressing or curing and less cost of transportation from the Pribilof Islands; such market value in case of dispute to be determined by an umpire to be agreed upon by the high con-

tracting parties, which skins shall be retained by the United States in satisfaction of such payment.

The United States further agrees that Great Britain's share of the sealskins taken on the Pribilof Islands shall not be less than one thousand (1,000) in any year, even if such number is more than one-fifth of the number to which the authorized killing is restricted in such year, unless the killing of seals in such year or years shall have been absolutely prohibited by the United States for all purposes except to supply food, clothing, and boat skins for the natives on the islands, in which case the United States agrees to pay to Great Britain the sum of ten thousand dollars ($10,000) annually in lieu of any share of skins during the years when no killing is allowed, and Great Britain agrees that after deducting the skins of Great Britain's share which are to be retained by the United States as above provided to reimburse itself for the advance payment aforesaid, the United States shall be entitled to reimburse itself for any annual payments made as herein required, by retaining an additional number of sealskins from Great Britain's share over and above the specified minimum allowance of one thousand (1,000) skins in any subsequent year or years when killing is again resumed, until the whole number of the skins so retained shall equal, reckoned at their market value determined as above provided for, the entire amount so paid, with interest at the rate of four (4) per cent per annum.

If, however, the total number of seals frequenting the Pribilof Islands in any year falls below one hundred thousand (100,000), enumerated by official count, then all killing, excepting the inconsiderable supply necessary for the support of the natives, as above noted, may be suspended without allowance of skins or payment of money equivalent until the number of such seals again exceeds one hundred thousand (100,000), enumerated in like manner.

ARTICLE IV.

The term "pelagic sealing," as used herein, is defined to be the killing, capturing, or pursuing in any manner whatsoever of fur seals at sea, outside territorial waters.

ARTICLE V.

The high contracting parties agree that they will each maintain a guard or patrol in the waters of the north Pacific Ocean and Behring Sea so far as may be necessary for the enforcement of the aforesaid prohibitions.

ARTICLE VI.

The foregoing articles shall go into effect as soon as, but not before, an international agreement is concluded and ratified by the Governments of the United States, Great Britain, Japan, and Russia by which each of those powers shall undertake, by such stipulations as may be mutually acceptable, to prohibit for a period of not less than fifteen years, its own citizens or subjects, and all persons sub-

ject to its laws and treaties, from engaging in pelagic sealing in waters including the area defined in Article I, and effectively to enforce such prohibition.

The foregoing articles of this treaty shall continue in force during the period of fifteen (15) years from the day on which they go into effect and thereafter until terminated by twelve (12) months' written notice given by either the United States or Great Britain to the other, which notice may be given at the expiration of fourteen years or at any time afterwards.

ARTICLE VII.

The high contracting parties engage to cooperate with each other in urging other powers whose subjects or citizens may be concerned in the fur-seal fisheries to forego, in virtue of appropriate arrangements, the exercise of the right of pelagic sealing, and also to prohibit the use of their ports and flag in the furtherance of pelagic sealing within the areas covered by such arrangement.

ARTICLE VIII.

This treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and ratifications shall be exchanged in Washington as soon as practicble.

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

Done at Washington the seventh day of February, in the year of our Lord one thousand nine hundred and eleven.

PHILANDER C. KNOX. [SEAL.]
JAMES BRYCE. [SEAL.]

And whereas the said treaty has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington, on the seventh day of July, one thousand nine hundred and eleven;

Now, therefore, be it known that I William Howard Taft, President of the United States of America, have caused said treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony 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 fourteenth day of December in the year of our Lord one thousand nine hundred and [SEAL.] eleven, and of the independence of the United States of America the one hundred and thirty-sixth.

WM. H. TAFT.

By the President:
P. C. KNOX,
Secretary of State.

CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS.

Signed at Washington, July 7, 1911; ratification advised by the Senate, July 24, 1911; ratified by the President, November 24, 1911; ratified by Great Britain, August 25, 1911; ratified by Japan, November 6, 1911; ratified by Russia, October 22, 1911, November 4, 1911; ratifications exchanged at Washington, December 12, 1911; proclaimed, December 14, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, a Convention between the United States of America, Great Britain, Japan and Russia providing for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, was concluded and signed by their respective plenipotentiaries at Washington, on the 7th day of July, one thousand nine hundred and eleven, the original of which Convention, being in the English language, is word for word as follows:

The United States of America, His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, His Majesty the Emperor of Japan, and His Majesty the Emperor of all the Russias, being desirous of adopting effective means for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, have resolved to conclude a convention for the purpose, and to that end have named as their plenipotentiaries:

The President of the United States of America, the Honorable Charles Nagel, Secretary of Commerce and Labor of the United States, and the Honorable Chandler P. Anderson, Counselor of the Department of State of the United States;

His Britannic Majesty, the Right Honorable James Bryce, of the Order of Merit, his ambassador extraordinary and plenipotentiary at Washington, and Joseph Pope, Esquire, commander of the Royal Victorian Order and Companion of the Order of St. Michael and St. George, under secretary of state of Canada for external affairs;

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, his ambassador extraordinary and plenipotentiary at Washington; and the Honorable Hitoshi Dauké, Shoshii, Third Class of the Imperial Order of the Rising Sun, director of the bureau of fisheries, department of agriculture and commerce;

His Majesty the Emperor of all the Russias, the Honorable Pierre Botkine, Chamberlain of His Majesty's court, envoy extraordinary and minister plenipotentiary to Morocco, and Baron Boris Nolde, of the foreign office;

Who, after having communicated to one another their respective full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

The High Contracting Parties mutually and reciprocally agree that their citizens and subjects respectively, and all persons subject to their laws and treaties, and their vessels, shall be prohibited, while this Convention remains in force, from engaging in pelagic sealing in the waters of the North Pacific Ocean, north of the thirtieth parallel of north latitude and including the Seas of Bering, Kamchatka, Okhotsk and Japan, and that every such person and vessel offending against such prohibition may be seized, except within the territorial jurisdiction of one of the other powers, and detained by the naval or other duly commissioned officers of any of the parties to this Convention, to be delivered as soon as practicable to an authorized official of their own nation at the nearest point to the place of seizure, or elsewhere as may be mutually agreed upon; and that the authorities of the nation to which such person or vessel belongs alone shall have jurisdiction to try the offense and impose the penalties for the same; and that the witnesses and proofs necessary to establish the offense, so far as they are under the control of any of the parties to this Convention, shall also be furnished with all reasonable promptitude to the proper authorities having jurisdiction to try the offense.

ARTICLE II.

Each of the High Contracting Parties further agrees that no person or vessel shall be permitted to use any of its ports or harbors or any part of its territory for any purposes whatsoever connected with the operations of pelagic sealing in the waters within the protected area mentioned in Article I.

ARTICLE III.

Each of the High Contracting Parties further agrees that no sealskins taken in the waters of the North Pacific Ocean within the protected area mentioned in Article I, and no sealskins identified as the species known as *Callorhinus alascanus*, *Callorhinus ursinus*, and *Callorhinus kurilensis*, and belonging to the American, Russian or Japanese herds, except such as are taken under the authority of the respective powers to which the breeding grounds of such herds belong and have been officially marked and certified as having been so taken, shall be permitted to be imported or brought into the territory of any of the parties to this Convention.

ARTICLE IV.

It is further agreed that the provisions of this Convention shall not apply to Indians, Ainos, Aleuts, or other aborigines dwelling on the coast of the waters mentioned in Article I, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms; provided that such aborigines are not in the employment of other persons or under contract to deliver the skins to any person.

ARTICLE V.

Each of the High Contracting Parties agrees that it will not permit its citizens or subjects or their vessels to kill, capture or pursue beyond the distance of three miles from the shore line of its territories sea otters in any part of the waters mentioned in Article I of this Convention.

ARTICLE VI.

Each of the High Contracting Parties agrees to enact and enforce such legislation as may be necessary to make effective the foregoing provisions with appropriate penalties for violations thereof.

ARTICLE VII.

It is agreed on the part of the United States, Japan, and Russia that each respectively will maintain a guard or patrol in the waters frequented by the seal herd in the protection of which it is especially interested, so far as may be necessary for the enforcement of the foregoing provisions.

ARTICLE VIII.

All of the High Contracting Parties agree to cooperate with each other in taking such measures as may be appropriate and available for the purpose of preventing pelagic sealing in the prohibited area mentioned in Article I.

ARTICLE IX.

The term pelagic sealing is hereby defined for the purposes of this Convention as meaning the killing, capturing or pursuing in any manner whatsoever of fur seals at sea.

ARTICLE X.

The United States agrees that of the total number of sealskins taken annually under the authority of the United States upon the Pribilof Islands or any other islands or shores of the waters mentioned in Article I subject to the jurisdiction of the United States to which any seal herds hereafter resort, there shall be delivered at the Pribilof Islands at the end of each season fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Canadian Government and fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose such restrictions and regulations upon the total number of skins to be taken in any season and the manner and times and places of taking them as may seem necessary to protect and preserve the seal herd or to increase its number.

ARTICLE XI.

The United States further agrees to pay the sum of two hundred thousand dollars ($200,000) to Great Britain and the sum of two hundred thousand dollars ($200,000) to Japan when this Convention goes into effect, as an advance payment in each case in lieu of such number of fur-seal skins to which Great Britain and Japan respectively would be entitled under the provisions of this Convention as would be equivalent in each case to two hundred thousand dollars ($200.000) reckoned at their market value at London at the date of their delivery before dressing and curing and less cost of transportation from the Pribilof Islands, such market value in case of dispute to be determined by an umpire to be agreed upon by the United States and Great Britain, or by the United States and Japan, as the case may be, which skins shall be retained by the United States in satisfaction of such payments.

The United States further agrees that the British and Japanese share respectively of the sealskins taken from the American herd under the terms of this Convention shall be not less than one thousand (1,000) each in any year even if such number is more than fifteen per cent (15%) of the number to which the authorized killing is restricted in such year, unless the killing of seals in such year or years shall have been absolutely prohibited by the United States for all purposes except to supply food, clothing, and boat skins for the natives on the islands, in which case the United States agrees to pay to Great Britain and to Japan each the sum of ten thousand dollars ($10.000) annually in lieu of any share of skins during the years when no killing is allowed; and Great Britain agrees, and Japan agrees, that after deducting the skins of their respective shares, which are to be retained by the United States as above provided to reimburse itself for the advance payment aforesaid, the United States shall be entitled to reimburse itself for any annual payments made as herein required, by retaining an additional number of sealskins from the British and Japanese shares respectively over and above the specified minimum allowance of one thousand (1,000) skins in any subsequent year or years when killing is again resumed, until the whole number of skins retained shall equal, reckoned at their market value determined as above provided for, the entire amount so paid, with interest at the rate of four per cent (4%) per annum.

If, however, the total number of seals frequenting the United States islands in any year falls below one hundred thousand (100,000), enumerated by official count, then all killing, excepting the inconsiderable supply necessary for the support of the natives as above noted, may be suspended without allowance of skins or payment of money equivalent until the number of such seals again exceeds one hundred thousand (100,000), enumerated in like manner.

ARTICLE XII.

It is agreed on the part of Russia that of the total number of sealskins taken annually upon the Commander Islands, or any other island or shores of the waters defined in Article I subject to the jurisdiction of Russia to which any seal herds hereafter resort, there shall be delivered at the Commander Islands at the end of each season

fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Canadian Government, and fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of Russia at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Russian seal herd, or to increase its number; but it is agreed, nevertheless, on the part of Russia that during the last ten years of the term of this Convention not less than five per cent (5%) of the total number of seals on the Russian rookeries and hauling grounds will be killed annually, provided that said five per cent (5%) does not exceed eighty-five per cent (85%) of the three-year-old male seals hauling in such year.

If, however, the total number of seals frequenting the Russian islands in any year falls below eighteen thousand (18,000) enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds eighteen thousand (18,000) enumerated in like manner.

ARTICLE XIII.

It is agreed on the part of Japan that of the total number of sealskins taken annually upon Robben Island, or any other islands or shores of the waters defined in Article I subject to the jurisdiction of Japan to which any seal herds hereafter resort, there shall be delivered at Robben Island at the end of each season ten per cent (10%) gross in number and value thereof to an authorized agent of the United States Government, ten per cent (10%) gross in number and value thereof to an authorized agent of the Canadian Government, and ten per cent (10%) gross in number and value thereof to an authorized agent of the Russian Government; provided, however, that nothing herein contained shall restrict the right of Japan at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Japanese herd, or to increase its number; but it is agreed, nevertheless, on the part of Japan that during the last ten years of the term of this Convention not less than five per cent (5%) of the total number of seals on the Japanese rookeries and hauling grounds will be killed annually, provided that said five per cent (5%) does not exceed eighty-five per cent (85%) of the three-year-old male seals hauling in such year.

If, however, the total number of seals frequenting the Japanese islands in any year falls below six thousand five hundred (6,500)

enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds six thousand five hundred (6,500) enumerated in like manner.

ARTICLE XIV.

It is agreed on the part of Great Britain that in case any seal herd hereafter resorts to any islands or shores of the waters defined in Article I subject to the jurisdiction of Great Britain, there shall be delivered at the end of each season during the term of this Convention ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the United States Government, ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the Japanese Government, and ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the Russian Government.

ARTICLE XV.

It is further agreed between the United States and Great Britain that the provisions of this Convention shall supersede, in so far as they are inconsistent therewith or in duplication thereof, the provisions of the treaty relating to the fur seals, entered into between the United States and Great Britain on the 7th day of February, 1911.

ARTICLE XVI.

This Convention shall go into effect upon the 15th day of December, 1911, and shall continue in force for a period of fifteen (15) years from that date, and thereafter until terminated by twelve (12) months' written notice given by one or more of the parties to all of the others, which notice may be given at the expiration of fourteen years or at any time afterwards, and it is agreed that at any time prior to the termination of this Convention, upon the request of any one of the High Contracting Parties, a conference shall be held forthwith between representatives of all the parties hereto, to consider and if possible agree upon a further extension of this Convention with such additions and modifications, if any, as may be found desirable.

ARTICLE XVII.

This Convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, by His Britannic Majesty, by His Majesty the Emperor of Japan, and by His Majesty the Emperor of all the Russias; and ratifications shall be exchanged at Washington as soon as practicable.

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

Done at Washington the 7th day of July, in the year one thousand nine hundred and eleven.

CHARLES NAGEL	[SEAL]
CHANDLER P. ANDERSON	[SEAL]
JAMES BRYCE	[SEAL]
JOSEPH POPE	[SEAL]
Y. UCHIDA	[SEAL]
H. DAUKE	[SEAL]
P. BOTKINE	[SEAL]
NOLDE	[SEAL]

And whereas the said Convention has been duly ratified on the part of each of the High Contracting Parties, and the ratifications of the four Governments were exchanged in the City of Washington, on the twelfth day of December, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, 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 testimony 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 fourteenth day of December in the year of our Lord one thousand nine hundred and [SEAL] eleven, and of the Independence of the United States of America the one hundred and thirty-sixth.

WM H TAFT

By the President:
P C KNOX
Secretary of State.

ARBITRATION OF PECUNIARY CLAIMS.

Special Agreement for the submission to Arbitration of Pecuniary Claims outstanding between the United States and Great Britain; signed at Washington August 18, 1910; approved by the Senate July 19, 1911.

Whereas the United States and Great Britain are signatories of the convention of the 18th October, 1907,[1] for the pacific settlement of international disputes, and are desirous that certain pecuniary claims outstanding between them should be referred to arbitration, as recommended by article 38 of that convention.

Now, therefore, it is agreed that such claims as are contained in the schedules drawn up as hereinafter provided shall be referred to arbitration under Chapter IV of the said convention, and subject to the following provisions:

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[1] See Foreign Relations 1907, pt. 2, p. 1181; or Malloy's Treaties, vol. 2, p. 2220.

ARTICLE 1. Either party may, at any time within four months from the date of the confirmation of this agreement, present to the other party any claims which it desires to submit to arbitration. The claims so presented shall, if agreed upon by both parties, unless reserved as hereinafter provided, be submitted to arbitration in accordance with the provisions of this agreement. They shall be grouped in one or more schedules which, on the part of the United States, shall be agreed on by and with the advice and consent of the Senate, His Majesty's Government reserving the right before agreeing to the inclusion of any claim affecting the interests of a self-governing dominion of the British Empire to obtain the concurrence thereto of the Government of that dominion.

Either party shall have the right to reserve for further examination any claims so presented for inclusion in the schedules; and any claims so reserved shall not be prejudiced or barred by reason of anything contained in this agreement.

ARTICLE 2. All claims outstanding between the two Governments at the date of the signature of this agreement and originating in circumstances or transactions anterior to that date, whether submitted to arbitration or not, shall thereafter be considered as finally barred unless reserved by either party for further examination as provided in article 1.

ARTICLE 3. The arbitral tribunal shall be constituted in accordance with article 87 (Chapter IV) and with article 59 (Chapter III) of the said convention, which are as follows:

ARTICLE 87. Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court, exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.

The umpire presides over the tribunal, which gives its decisions by a majority of votes.

ARTICLE 59. Should one of the arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ARTICLE 4. The proceedings shall be regulated by so much of Chapter IV of the convention and of Chapter III, excepting articles 53 and 54, as the tribunal may consider to be applicable and to be consistent with the provisions of this agreement.

ARTICLE 5. The tribunal is entitled, as provided in article 74 (Chapter III) of the convention, to issue rules of procedure for the conduct of business, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all formalities required for dealing with the evidence.

The agents and counsel of the parties are authorized, as provided in article 70 (Chapter III), to present orally and in writing to the tribunal all the arguments they may consider expedient in support or in defense of each claim.

The tribunal shall keep record of the claims submitted, and the proceedings thereon, with the dates of such proceedings. Each Government may appoint a secretary. These secretaries shall act together as joint secretaries of the tribunal and shall be subject to its direction. The tribunal may appoint and employ any other necessary officer or officers to assist it in the performance of its duties.

The tribunal shall decide all claims submitted upon such evidence or information as may be furnished by either Government.

The tribunal is authorized to administer oaths to witnesses and to take evidence on oath.

The proceedings shall be in English.

ARTICLE 6. The tribunal shall meet at Washington at a date to be hereafter fixed by the two Governments, and may fix the time and place of subsequent meetings as may be convenient, subject always to special direction of the two Governments.

ARTICLE 7. Each member of the tribunal, upon assuming the function of his office, shall make and subscribe a solemn declaration in writing that he will carefully examine and impartially decide, in accordance with treaty rights and with the principles of international law and of equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the tribunal.

ARTICLE 8. All sums of money which may be awarded by the tribunal on account of any claim shall be paid by the one Government to the other, as the case may be, within eighteen months after the date of the final award, without interest and without deduction, save as specified in the next article.

ARTICLE 9. Each Government shall bear its own expenses. The expenses of the tribunal shall be defrayed by a ratable deduction on the amount of the sums awarded by it, at a rate of 5 per cent on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE 10. The present agreement, and also any schedules agreed thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

In witness whereof this agreement has been signed and sealed by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States, and by His Britannic Majesty's Ambassador at Washington, the Right Hon. James Bryce, O. M., on behalf of Great Britain.

Done in duplicate at the city of Washington, this 18th day of August, one thousand nine hundred and ten.

[SEAL] PHILANDER C. KNOX.
[SEAL] JAMES BRYCE.

SCHEDULE OF CLAIMS.

First schedule of claims to be submitted to arbitration in accordance with the provisions of the foregoing special agreement and the terms of such submission.

CLASS I.—Claims based on alleged denial in whole or in part of real property rights.

BRITISH:
Cayuga Indians, Rio Grande.

AMERICAN:
Webster, Studer, R. E. Brown, Samuel Clark.
Fijian land claims.—Burt, Henry, Brower, Williams.

CLASS II.—Claims based on the acts of the authorities of either Government in regard to the vessels of the nationals of the other Government, or for the alleged wrongful collection or receipt of customs duties or other charges by the authorities of either Government:

BRITISH:

Shipping claims—

Coquitlam, Favourite, Wanderer, Kate, Lord Nelson, Canadienne, Eastry, Lindisfarne, Newchwang, Sidra, Maroa, Thomas F. Bayard, Jessie, Peschawa.

Canadian claims for refund of hay duties—

Peter Anderson, Charles Arpin, Nathaniel Bachelder, Magloire, G. Blain, Toussaint Bourassa, continuing partner of Bourassa and Forrester; Pierre Bourgeois, William Burland & Company; Charles S. Rowe, surviving partner; Frederick Catudal; L. N. Charlebois, heir and assignee of Denis N. Charlebois; Joseph Couture; Wilfrid Dorais, heir of Louis T. Dorais; John and Francis Ewing, John Ewing, surviving partner; Joseph Jean Baptiste Gosselin, heirs of Joseph A. Lamoureux, deceased.

Gorton-Pew Co. (37 vessels)—A. M. Parker, Priscilla Smith, Senator Gardner, Corsair, Vigilant, Harry A. Nickerson, Gossip, Flirt, Ella G. King, Helen G. Wells, Ramona, Massachusetts, Ellen C. Burke, J. J. Flaherty, Geo. R. Alston, Maxine Elliott, Vera, Orinoco, Miranda, Madonna, Atlanta, Gov. Russell, Mystery, Jas. A. Garfield, L. I. Lowell, Dora A. Lawson, Tattler, Alice R. Lawson, Olga, J. R. Bradley, Fannie Smith, Rob Roy, Smuggler, Essex, Athlete, Valkyria, Sceptre.

W. H. Jordan (6 vessels)—Lewis H. Giles, O. W. Holmes, The Gatherer, Hattie E. Worcester, Goldenrod, Joseph Rowe.

Orlando Merchant (16 vessels)—Avalon, Constellation, O. W. Holmes, Golden Rod, Grayling, Joseph Rowe, Harvard, Mary E. Harty, Harriet W. Babson, Richard Wainwright, Henry M. Stanley, Lewis H. Giles, Lottie G. Merchant, Oriole, Clintonia, Esperanto.

Jerome McDonald (3 vessels)—Preceptor, Gladiator, Monitor.

John Pew & Sons (5 vessels)—A. E. Whyland, Essex, Columbia, Orinoco, Scepter.

D. B. Smith & Co. (12 vessels)—Smuggler, Lucinda I. Lowell, Helen F. Whittier, Dora A. Lawson, Carrie W. Babson, Golden Hope, Fernwood, Sen. Gardner, Maxine Elliott, J. J. Flaherty, Tattler, Stranger.

Sylvanus Smith & Co. (7 vessels)—Lucile, Bohemia, Claudia, Arcadia, Parthia, Arabia, Sylvania.

John Chisolm (5 vessels)—Admiral Dewey, Harry G. French, Monarch, Judique, Conqueror.

Carl C. Young (3 vessels)—Dauntless, A. E. Whyland, William E. Morrissey.

Hugh Parkhurst & Co. (6 vessels)—Rival, Arthur D. Story, Patrician, Geo. Parker, Sen. Saulsbury, Diana.

A. D. Mallock (3 vessels)—Indiana, Alert, Edna Wallace Hopper.

Thomas M. Nickolson (13 vessels)—Ada S. Babson, Elizabeth N., Hiram Lowell, M. B. Stetson, A. V. S. Woodruff, T. M. Nickolson, Landseer, Edgar S. Foster, A. M. Nickolson, Wm. Matheson, Robin Hood, Annie G. Quinner, N. E. Symonds.

M. J. Palson (3 vessels)—Barge Tillid, schooner J. K. Manning, tug Clarita.

M. J. Dillon (1 vessel)—Edith Emery.

Russell D. Terry (1 vessel)—Centennial.

Lemuel E. Spinney (3 vessels)—American, Arbitrator, Dictator.

Wm. H. Thomas (2 vessels)—Elmer E. Gray, Thos. L. Gorton.

Frank H. Hall (3 vessels)—Ralph H. Hall, Sarah E. Lee, Faustina.

M. Walen & Son (7 vessels)—Kentucky, Effie W. Prior, Orpheus, Hattie A. Heckman, Ella M. Goodsin, Bessie N. Devine, Arthur James.

AMERICAN:

Fishing claim—

Group 1.—Against Newfoundland—

Cunningham & Thompson (18 vessels)—Masconomo, Arbutus, Anglo-Saxon, Quickstep, Nourmahal, Puritan, Talisman, Norma, Norumbega, Aloha, Ingomar, Jennie B. Hodgdon, Arkona, Arethusa, Independence II, S. P. Willard, Corona, Saladin.

Davis Bros. (10 vessels)—Oregon, Margaret, Theo. Roosevelt, I. M. Stanwood, Georgie Campbell, Blanche, Veda McKown, E. A. Perkins, Kearsarge, Lena & Maud.
Wm. H. Parsons (12 vessels)—Corsair, Grace L. Fears, Argo, Lizzie Griffin, Independence, Independence II, Dreadnought, Robin Hood, Helen G. Wells, Colonial, Alice M. Parsons, Mildred V. Lee.
Atlantic Maritime Co. (7 vessels)—James W. Parker, Raynah, Susan & Mary, Elsie, Fannie E. Prescott, E. E. Gray, Mildred Robinson.
Waldo I. Wonson (5 vessels)—American, Mystery, Procyon, Effie M. Morrissey, Marguerite.
Edward Trevoy (1 vessel)—Edward Trevoy.
Henry Atwood (1 vessel)—Fannie B. Atwood.
Fred Thompson (1 vessel)—Elsie M. Smith.

Group 2.—Against Newfoundland—
Bessie M. Wells, Elector, Sarah B. Putnam, A. E. Whyland, N. B. Parker, Thomas F. Bayard, Arethusa, Harry A. Nickerson, Arkona, Edna Wallace Hopper, Athlete.

Against Canada—
Frederick Gerring, North, D. J. Adams, R. T. Roy, Tattler, Hurricane, Argonaut, Jonas H. French.

CLASS III.—Claims based on damages to the property of either Government or its nationals, or on personal wrongs of such nationals, alleged to be due to the operations of the military or naval forces of the other Government or to the acts or negligence of the civil authorities of the other Government.

British:

Four cable companies claims—
Cuban Submarine Telegraph Co., Eastern Extension Cable Co., Canadian Electric Light Co., Great Northwestern Telegraph Co.

"*Philippine war*" *claims*—
Ackart, Balfour, Broxup, Cundal, Dodson, Fleming, Forbes, Fox, Fyfe, Grace, Grindrod, Hawkins, F., Hawkins, J., Hendry, Hill, Hogg, Holiday, Hong Kong Bank, Iloilo Club, Eastern Extension Telegraph Co., Higgins, W., Higgins, N. L., Hoskins & Co., Kaufman, Ker Bolton & Co., Launders, McLeod, McMeeking, Moore, Philippine Mineral Syndicate, Pohang, Pohoomul, Smith, Stevenson, Strachan, Thomson, Underwood, Warner, Zafiro, C. B. Chiene, N. L. Chiene, Parsons & Walker.

"*Hawaiian claims*—
Ashford, Bailey, Harrison, Kenyon, Levy, McDowall, Rawlins, Redward, Reynolds, Thomas.
Hardman, Wrathall, Cadenhead.

American:
Home Missionary Society, Daniel Johnson, Union Bridge Company, Madeiros.

CLASS IV.—Claims based on contracts between the authorities of either Government and the nationals of the other Government.

BRITISH:
King Robert, Yukon Lumber, Hemming.

TERMS OF SUBMISSION.

I. In case of any claim being put forward by one party which is alleged by the other party to be barred by treaty, the arbitral tribunal shall first deal with and decide the question whether the claim is so barred, and in the event of a decision that the claim is so barred, the claim shall be disallowed.

II. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim any admission of liability by the Government against whom a claim is put forward.

III. The arbitral tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim, in whole or in part, any failure on the part of the claimants to obtain satisfaction through legal remedies which are open to him or placed at his

disposal, but no claim shall be disallowed or rejected by application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity of the claim.

IV. The arbitral tribunal, if it considers equitable, may include in its award in respect of any claim interest at a rate not exceeding 4 per cent per annum for the whole or any part of the period between the date when the claim was first brought to the notice of the other party and that of the confirmation of the schedule in which it is included.

The foregoing schedule and terms of submission are agreed upon in pursuance of and subject to the provisions of the special agreement for the submission to arbitration of pecuniary claims outstanding between the United States and Great Britain, signed on the 18th day of August, 1910, and require confirmation by the two Governments in accordance with the provisions of that agreement.[1]

Signed in duplicate at the city of Washington, this sixth day of July, one thousand nine hundred and eleven, by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States, and by his Britannic Majesty's ambassador at Washington, the Right Honorable James Bryce, O. M., on behalf of Great Britain.

PHILANDER C. KNOX.
JAMES BRYCE.

FISHERIES IN CANADIAN AND NEWFOUNDLAND TREATY WATERS.

Minutes of conferences held at Washington the 9th, 10th, 11th, and 12th of January, 1911, as to the application of the award delivered on the 7th September, 1910,[2] in the North Atlantic Coast Fisheries Arbitration to existing Regulations of Canada and Newfoundland.

The undersigned having considered in detail and with expert assistance the steps to be taken in consequence of the award in connection with the objections of the United States Government to existing regulations of the fisheries in Canadian and Newfoundland treaty waters as recorded in Protocol XXX of the proceedings before the Tribunal of Arbitration, and having conferred as to the best means of dealing with these objections, have arrived at the following conclusion:

It is unnecessary to refer any existing regulations to the commission of experts mentioned in the award in application of Article III of the special agreement of January 27, 1909,[3] or to reconvene the Tribunal of Arbitration; but any difference in regard to the regulations specified in Protocol XXX, which shall not have been disposed of by diplomatic methods, shall be referred to the Permanent Mixed Fishery Commissions to be constituted as recommended by The Hague award, under Article IV of the special agreement in the same manner as a difference in regard to future regulations would be so referred under the recommendations in the award, unless by mutual consent some other rules and method of procedure are adopted.

January 12, 1911.

PHILANDER C. KNOX,
JAMES BRYCE,
E. A. MORRIS,
CHANDLER P. ANDERSON,
A. B. AYLESWORTH,
L. P. BRODEUR.

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[1] Confirmed by exchange of notes Apr. 26, 1912.
[2] See Foreign Relations 1910, p. 544.
[3] See Foreign Relations 1909, p. 275.

File No. 711.428.

Minutes of conferences held at Washington the 13th and 14th of January, 1911, as to the objections of the United States to existing laws and fishery regulations of Canada as recorded in Protocol XXX of the proceedings upon the North Atlantic Coast Fisheries Arbitration.

The undersigned, having considered the best means of dealing with the objections above referred to, subject to the minute of previous conferences signed January twelfth, have arrived at the following conclusion:

Having regard to the present method of administering the Canadian laws and fishery regulations and to certain amendments which Canada is willing to make therein and to the present state of the fisheries and conditions under which they are carried on and places of fishing, the United States does not press at present any of the objections referred to in Protocol XXX which relate to Canadian laws and fishery regulations, it being understood that the right of the United States to renew such objections is not thereby in any way prejudiced should conditions change.

The amendments in regulations above referred to are:

Subsection one of section five of the Special Fishery Regulations, Province of Quebec, approved on the twelfth day of September, one thousand nine hundred and seven, is repealed and the following substituted therefor:

1. Fishing by means of cod trap nets without a license from the minister of marine and fisheries is prohibited in the waters of the Gulf of St. Lawrence, except at the distance of one thousand yards from shore or one thousand yards from any similar net set from the shore.

Subsection four of section five is repealed and the following substituted therefor:

4. If the leader of a cod trap-net extends from the shore, any fishery officer may determine in writing or orally the length of the leader that shall be used.

Subsection (*a*) of section eight of the said Special Fishery Regutions is hereby repealed and the following substituted therefor:

1. (*a*) Fishing by means of herring trap-nets without a license from the minister of marine and fisheries is prohibited in the waters of the Gulf of St. Lawrence, except at the distance of one thousand yards from shore or one thousand yards from any similar net set from the shore.

Subsection (*d*) of section eight is hereby repealed and the following substituted therefor:

(*d*) If the leader of a herring trap-net extends from the shore, any fishery officer may determine in writing or orally the length of the leader that shall be used.

Subsection nine of section five (added):

Upon any inhabitant of the United States fishing with trap-nets in Canadian waters in the exercise of his liberties under the treaty of 1818 applying for a berth site under the licensing provisions, such a license shall be issued in the usual course for any unoccupied berth site selected by the applicant upon payment of the regular fee in consideration of the exclusive use of such site, subject to the usual rules and regulations.

Clause (*f*) of subsection one of section eight (added):

Upon any inhabitant of the United States fishing with trap-nets in Canadian waters in the exercise of his liberties under the treaty of 1818 applying for a berth site under the licensing provisions, such a license shall be issued in the usual course for any unoccupied berth site selected by the applicant upon payment of the regular fee in consideration of the exclusive use of such site, subject to the usual rules and regulations.

January 14, 1911.

PHILANDER C. KNOX.
JAMES BRYCE.
L. P. BRODEUR.
A. B. AYLESWORTH.
CHANDLER P. ANDERSON.

GUATEMALA.

RIGHT OF AMERICAN CITIZENS ARRESTED IN GUATEMALA AND KEPT "INCOMUNICADO" TO INFORM AMERICAN DIPLOMATIC AND CONSULAR OFFICERS OF THEIR DETENTION. RIGHT TO COMMUNICATE FREELY IN OTHER CASES.[1]

File No. 814.0441.

The American Minister to the Secretary of State.

[Extract.]

No. 203.] AMERICAN LEGATION,
Guatemala, September 16, 1910.

SIR: It has been announced by the Mexican press that all foreigners arrested and placed in Mexican prisons are in future to be permitted to communicate with the diplomatic or consular representatives of their Governments, and that the system of "incomunicación" of the Spanish law is to be modified.

Whether this announcement is true or not I shall be glad to receive the Department's authority to approach President Estrada Cabrera on this subject. The complete isolation of prisoners in the first stages of investigation should not, I think, apply to the diplomatic or consular representatives of a foreign Government in the case of their nationals.

If the right of the diplomatic or consular representative to communicate with his imprisoned nationals in the presence of the local authorities at any stage of imprisonment were conceded, fewer occasions would arise for insistence on their right.

I have, etc.,

W. F. SANDS.

File No. 814.0441/1.

The American Minister to the Secretary of State.

[Extract.]

No. 212.] AMERICAN LEGATION,
Guatemala, September 28, 1910.

SIR: I have the honor to report that I have secured from President Estrada Cabrera a promise which will aid greatly in bringing about a more satisfactory situation for Americans in Guatemala.

In a conversation with His Excellency on September 20 I spoke to him of the unnecessary difficulties with which we have to contend and pointed out to him the impossibility of obtaining the least information from any official source concerning cases involving American interests. I suggested that His Excellency would lighten the burden of his foreign office and of the department of government and justice as well as of this office by privately instructing the judiciary to attend with good will to confidential requests for information con-

[1] See same subject under Mexico.

cerning American cases made by the minister or consul general. His Excellency promised me to give such confidential instructions and to give my proposal a thorough trial.

I have, etc.,

W. F. SANDS.

File No. 814.0441/1.

The Secretary of State to the American Minister.

No. 68.] DEPARTMENT OF STATE,
Washington, April 17, 1911.

SIR: Referring to Mr. Sands's Nos. 203 and 212, of September 15 and 28 last, respectively, you are hereby instructed to say to President Cabrera that the United States Government would greatly appreciate the modification of the system of "incomunicación" which prevails in Guatemala, so far as to permit the American citizens under arrest to communicate freely with their diplomatic and consular representatives.

You will state that, as the department is advised, the denial of this right in the past has necessarily worked hardship to American citizens, a recent instance of which is to be found in the arrest through a mistake of Thomas J. McCullough, reported by the consul general at Guatemala City on November 5 last to both the department and the legation. It appears that Mr. McCullough was refused permission to communicate with the consulate general, and only through his good fortune in smuggling out a note * * * did he establish such communication and thus secure his release after the consul general had demonstrated to the authorities that Mr. McCullough was absolutely innocent of any offense against the laws of Guatemala.

You will in this connection refer cautiously to the tendency of the times toward a lessening of the stringency of the laws of "incomunicación," as evidenced in the action of the Mexican Government which, on July 22 last, issued a circular to the governors of the several States, recommending them to instruct the judges, as a general rule, that accused persons under arrest be allowed to communicate either orally or in writing with other persons; and in case they are foreigners, preferably with the diplomatic or consular representatives of their country, and that in general their annoyances and privations be reduced to those which are inevitable.

You will intimate to the President that the United States Government confidently believes that the Government of Guatemala will not desire to be less liberal in its treatment of foreigners than is that of Mexico.

I am, etc.,

P. C. KNOX.

File No. 814.0441/4.

The American Minister to the Secretary of State.

[Extract.]

No. 85.] AMERICAN LEGATION,
Guatemala, May 10, 1911.

SIR: With reference to your instruction No. 68 of the 17th ultimo, relative to the system of "incomunicación" which prevails in Guatemala, and referring to the case of the arrest of Thomas J. McCullough on November 5 last, I have the honor to report to you as follows:

When Mr. McCullough's case was reported to me by the consul general I discussed with the latter the question of the refusal of the authorities to permit the former to communicate with the consulate general, and on December 8 last addressed a note to the minister for foreign affairs requesting that such instructions as might be necessary should be issued to prevent a recurrence of the denial of access on the part of an American citizen under arrest in this Republic to his appropriate consular officer, and that I be notified when such steps had been taken. Under date of December 28 last I received a reply stating that the appropriate authorities were being conferred with in the sense desired, and that I should be advised of the result. After receiving your above-mentioned instruction I recalled the matter to the attention of the foreign office, and under date of the 8th instant received a note, of which I have the honor to inclose a copy with translation, stating that the necessary orders had been issued to permit all Americans arrested in this country to notify their consular representative immediately of their detention. Copies in Spanish and English of this note I have transmitted to the consul general for his information and for communication to our consular agents in Guatemala, with a request that any instance of failure on the part of local authorities to observe these instructions be promptly reported to the legation.

With respect to the question of the modification of the existing system of "incomunicación" I requested an interview with President Estrada Cabrera, which took place yesterday afternoon. I communicated to the President your instructions. He observed that "incomunicación," which might extend for a period of from 5 to 60 days, was only provided for in the case of very grave accusations, that it would be difficult to entirely abolish it, but that in all other cases there was no objection to Americans under arrest communicating with their diplomatic and consular representatives, and that he would cause a circular in this sense to be issued, adding that he would take a personal interest in the matter.

I have, etc.,

R. S. REYNOLDS HITT.

[Inclosure 1.]

The American Minister to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Guatemala, December 8, 1910.

EXCELLENCY: I have the honor to invite your excellency's attention to a complaint which I have received that an American citizen by the name of Thomas J. McCullough, who was arrested on the 5th instant under a charge of swindling, was denied the right to notify his consul general of his arrest and imprisonment in the jail of the 4a Seccion de Policia.

Mr. McCullough subsequently succeeded—but, I am informed, without the permission of the authorities—in advising the American consul general of his arrest, and was immediately released upon the explanation of an error which had been the cause thereof.

I shall, however, appreciate it if your excellency will kindly cause such instructions as may be necessary to be issued to prevent a recurrence of the denial of access on the part of an American citizen under arrest in this Republic to his appropriate consular officer and that you would be so good as to inform me when such steps have been taken.

I avail, etc.,

R. S. REYNOLDS HITT.

[Inclosure 2.]

The Minister for Foreign Affairs to the American Minister.

FOREIGN OFFICE,
Guatemala, May 8, 1911.

Mr. MINISTER: In reply to your excellency's courteous note of the 4th instant, I have the honor to advise your excellency that pursuant to your request proper instructions have been issued to the proper authorities to permit American citizens who may be arrested in the Republic immediately to apprise their competent consular representative of their detention.

I avail [etc.].

LUIS TOLEDO HERRARTE.

File No. 814.0441/5.

The American Minister to the Secretary of State.

No. 96.] AMERICAN LEGATION,
Guatemala, May 27, 1911.

SIR: With reference to my dispatch No. 85 of the 10th instant relative to the system of "incomunicación" I have the honor to transmit herewith a copy, accompanied by translation, of a note which I have received from the minister for foreign affairs incorporating instructions issued by the minister for government and justice to the departmental governors and judges of first instance, to permit American citizens under arrest in this Republic to communicate freely with their diplomatic or consular representative or with any other person, excepting only those in cases where the laws in force specifically forbid such intercourse.

I have transmitted copies of the foreign minister's note to the consul general for the information and guidance of himself and of the American consular agents in Guatemala with the request to report promptly any failure of the local authorities to comply with the instructions of the minister of government and justice.

I have, etc.,

R. S. REYNOLDS HITT.

[Inclosure.]

The Minister for Foreign Affairs to the American Minister.

[Translation.]

FOREIGN OFFICE,
Guatemala, May 24, 1911.

Mr. MINISTER: In compliance with the request of your excellency, I have the honor to communicate to you the text of the circular telegram which the minister of government and justice addressed to the authorities, which reads textually as follows:

GUATEMALA, *May 23, 1911.*

To the governors and judges of first instance:

Pursuant to a resolution of the Government of the Republic, I recommend that in the future, and excepting only those cases which would be opposed by definite laws on the matter, to permit Americans under arrest to hold communication as often as they desire with their diplomatic or consular representative or any other person.

I avail [etc.],

LUIS TOLEDO HERRARTE.

The Secretary of State to the American Minister.

No. 74.] DEPARTMENT OF STATE,
Washington, June 2, 1911.

SIR: The department acknowledges the receipt of your dispatch No. 85 of May 10 last, relative to the system of "incomunicación" which prevails in Guatemala, and notes that you were informed by the Guatemalan minister for foreign affairs in a communication dated May 8, 1911, of which you inclose a copy and translation, that "proper instructions have been issued to the proper authorities to permit American citizens who may be arrested in the Republic immediately to apprise their competent consular representative of their detention." The department also notes that in an interview which you had with the President of Guatemala on May 9 he observed that—

"incomunicación," which might extend for a period of from 5 to 60 days, was only provided for in the case of very grave accusations; that it would be difficult to entirely abolish it, but that in all other cases there was no objection to Americans under arrest communicating with their diplomatic and consular representatives; and that he would cause a circular in this sense to be issued.

There is apparently a discrepancy between the President's observations and the communication of the minister of foreign affairs, but it is assumed that the circular to be issued will, in accordance with the promise in the letter, permit all American citizens who may be arrested for any cause immediately to apprise their competent consular representative of their detention. Should the circular, however, not grant this permission as stated in the communication of the minister for foreign affairs, you will bring this matter to the attention of the minister, with a request for the proper modification of the circular in accordance with the terms of his communication to you.

You will also endeavor discreetly to expedite the issue of this circular and request to be furnished with a copy of it for the guidance of our consular officers and the exact information of the department.

I am, etc.,

P. C. KNOX.

File No. 814.0441/5.

The Secretary of State to the American Chargé d'Affaires.

No. 84.] DEPARTMENT OF STATE,
Washington, July 27, 1911.

SIR: The department is in receipt of Mr. Hitt's dispatch No. 96 of May 27 last, inclosing a copy of a note from the Guatemalan minister for foreign affairs, incorporating instructions issued by the minister of government and justice to the departmental governors and judges of first instance, directing them to permit American citizens under arrest in Guatemala to communicate freely with their diplomatic or consular representatives or with any other person, except only in those cases in which the laws in force specifically forbid such intercourse.

Mr. Hitt also reports that he has sent copies of the foreign minister's note to the consul general for the information and guidance of the latter and of the American consular agents in Guatemala, with instructions to report promptly any failure of the local authorities to comply with the instructions of the minister of government and justice.

The department is awaiting a reply to instruction 74 of the 2d ultimo before answering Mr. Hitt's No. 96.

I am [etc.],

P. C. KNOX.

File No. 814.0441/6.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 125.] AMERICAN LEGATION,
Guatemala, August 19, 1911.

SIR: I have the honor to acknowledge the receipt of the department's instructions to this legation of June 2 last, relative to the system of "incomunicación" which prevails in Guatemala. It is pointed out in these instructions that in Mr. Hitt's dispatch No. 85, of May 10 last, there appears a discrepancy between the terms of the note of the minister of foreign affairs and the statements made to Mr. Hitt by the President of Guatemala, and instructions are given this legation to bring the matter to the attention of the minister of foreign affairs.

In reply I have the honor to inform the department that I sought an interview with Mr. Toledo Herrarte, the minister of foreign affairs, and called his attention to the apparent discrepancy between his note of May 8 and the statement of the President to Mr. Hitt.

I showed Mr. Toledo Herrarte his original notes and he immediately stated to me that no discrepancy was shown nor was any such thing intended. He explained that in his first note he made it clear that all American citizens were permitted immediately to inform their consular representatives of their detention in every case, even when "incomunicado," but that the circular, transmitted in his second note, expressly stated that all American citizens were permitted to *communicate* freely—which, he explained to me, meant personally

to visit and speak with the prisoners—except when they were "incomunicado" under article 11 of the Penal Code, which expressly provides for this kind of detention in accusations of a very grave character.

He then went on to explain that the difference between "*inform*" and "*communicate freely*," as made by the Guatemalan Government, was that "to inform" meant to apprise the consular representative by messenger or letter, while "to communicate freely" meant to speak in person and see the representative, and that the latter case, when the prisoner was "incomunicado," would involve a breaking of the laws of Guatemala and could not be done. However, in all cases, even in those of "incomunicación," the prisoner would be permitted to inform his representative of his detention.

I have, etc.,

JORDAN HERBERT STABLER.

HAITI.

BOUNDARY DISPUTE BETWEEN HAITI AND THE DOMINICAN REPUBLIC.

[See Dominican Republic.]

REVOLUTION IN HAITI—RECOGNITION BY THE UNITED STATES OF THE LECONTE GOVERNMENT—TEMPORARY REFUGE OFFERED PRESIDENT SIMON.

File No. 838.00/567.

The American Minister to the Secretary of State.

[Extract.]

No. 892.] AMERICAN LEGATION,
Port au Prince, June 22, 1911.

SIR: I have the honor to inform the department that President Simon to-day told me that he contemplates leaving here on the recently acquired warship *Antoine Simon* about the 25th instant. The President will go as far as Cape Haitien on the boat, touching at the various points en route. From Cape Haitien he will march with a division of the army to Ouanaminthe and the frontier, where he will make personal investigation to ascertain if it is true that the Dominican authorities are harboring Haitian guerillas and permitting them to make raids into Haiti. * * *

President Simon also had news that arms had been landed in the vicinity of Fort Liberté and that that section would soon revolt. He desires to personally investigate the matter. He hopes to return to Port au Prince in about 10 days.

I have, etc.,

H. W. FURNISS.

File No. 838.00/570.

The American Minister to the Dominican Republic to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, July 13, 1911.

The American minister, Mr. Russell, had a conversation with the minister for foreign affairs on the situation in Haiti in which he stated that many of the Haitian forces were deserting and taking refuge in Dominican territory; also political suspects. Their return had been demanded, but the Dominican Government, knowing that they would probably be shot, had refused to give them up. Mr. Russell states that it would seem that these refugees, safe in Dominican territory, would not risk their lives by returning to Haitian territory, but he will endeavor to obtain definite information through the American employees of the general receivership on the frontier, and will report.

File No. 838.00/577.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, July 17, 1911—1 p. m.

Mr. Furniss reports that Government officers admit that a strong undercurrent is developing against the administration and he doubts the ability of the Government to control the situation in case of an outbreak. The Government has chartered a German vessel, which will arrive at Fort Liberté to take the President on board to-morrow; its destination is unknown, but is presumed to be Cape Haitien or Port au Prince.

File No. 838.00/576.

JULY 17, 1911—3 P. M.

Mr. Furniss is advised by the Haitian authorities that a telegram has been received announcing Gonaives in the hands of the revolutionists. The situation makes the presence of a war vessel desirable at Port au Prince.

File No. 838.00/584.

JULY 20, 1911—9 A. M.

The President arrived unexpectedly at Port au Prince yesterday. He contemplates forming a new cabinet at once and hopes to stem the tide. Practically all of the north is in the hands of the revolutionists.

File No. 838.002/4.

JULY 20, 1911—12 NOON.

The minister reports cabinet changes that will further injure status of the present administration. He was advised yesterday by the Haitian Government that the cities of St. Marc and Gonaives would be bombarded; he protested against such action unless carried out in accordance with The Hague convention.

File 838.00/587.

JULY 21, 1911.

Mr. Furniss has been informed by the commander of the *Petrel* that unless he has information from Gonaives by the next day he would leave for that place and would remain for 18 hours. Telegraphic communication with Gonaives is interrupted, and the diplomatic corps considers the presence of a war vessel necessary, as the Government is tottering.

File No. 838.00/592.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 22, 1911.

Mr. Knox informs Mr. Furniss that the department approves his July 20, noon. Instructs him to persist in the attitude therein indicated and to inform the Government of Haiti that the United States will hold Haiti strictly responsible for any damage that its citizens may sustain as a result of violations of these stipulations.

File No. 838.00/590.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, July 22, 1911.

The towns to the north and within 10 miles of Port au Prince have fallen, and it appears impossible for the Government to survive many hours longer.

File No. 838.00/589.

JULY 23, 1911.

The minister is informed by the Haitian Government that it has been decided to blockade Fort Liberté, Gonaives, and St. Marc. He has replied that the blockade must be effective to be respected.

File No. 838.00/594.

JULY 24, 1911.

At a meeting of the diplomatic corps to-day it was decided to inform the President of Haiti of the seriousness of the situation and ascertain if ample measures have been taken to prevent pillage and firing in the streets and for safeguarding the life and property of foreigners; the President affirmed that he had sufficient force to guarantee protection. The yacht *American* has been turned over to the Haitian Government, but the American crew remains aboard. The minister asks to be advised as to their status.

File No. 838.00/602.

JULY 27, 1911.

It is persistently reported that Aux Cays, the home town of the President, has revolted; the situation is becoming more serious, as other towns in the west have revolted; sentiment is strongly in favor of Simon leaving the country at once; most of the cabinet are of this opinion but are afraid to advise him; prominent men state that Simon's remaining complicates the situation; may prevent competent respectable persons from obtaining control of the Government and may lead to unnecessary bloodshed; this opinion the minister shares. He has been asked to inform the President of the true conditions and to advise him to leave, but has refused to do so, stating that he can take no such step. Congress is hurriedly passing numerous concessions because of better terms offered, and it is impossible to keep track of legislation. The consul at Port de Paix reports quiet there, but thinks the committee incompetent to maintain order.

File No. 838.00/603.

JULY 28, 1911.

Mr. Furniss says that in a long interview with the President the latter stated that a revolt that was attempted at Aux Cays the day before was prevented by Government forces, with several casualties.

The President expects Jeremie and vicinity, which revolted under a false impression, to lay down arms; the cruiser *Antoine Simon* is there, and while the President realizes that the situation is serious he will not surrender the Government until it is absolutely necessary. He has little confidence in the officials surrounding him and fears they will desert at the approach of danger. He seems to rest his hopes upon Aux Cays, but will await return of the gunboat from the south before deciding what he will do. If it becomes necessary for him to leave Haiti the United States will have to use a strong hand to prevent incendiarism, massacre, and pillage. In view of the numerous candidates to succeed him he feels sure that they will engage in active combat, and thinks it especially desirable that the United States should be prepared to prevent this. The President renewed his promise to prevent the soap monopoly. The *Peoria* reports Gonaives and Port de Paix quiet, and states that an American company at the latter place was delayed in loading a ship because the revolutionary committee insisted upon collecting duties instead of allowing payment to an agent of the bank, as the law requires.

File No. 838.00/607.

JULY 31, 1911.

At a meeting of the diplomatic corps held on this date the German minister was of opinion that Simon should be requested by the diplomatic corps to leave; the French minister was absent on account of illness; the Cuban and Dominican representatives were against the proposition, although the latter was in favor of taking some action if the Government attempted further executions; the British representative was uncertain.

File No. 838.00/612.

AUGUST 1, 1911—10 A. M.

Mr. Furniss reports the capture by the revolutionists of Lacoupe, a town 5 miles away in the mountains and overlooking Port au Prince. The President in an interview this morning admitted that Aux Cays was held by revolutionists; he discussed the seriousness of the situation but seemed to think he had a chance to overcome the revolution, stating that all was not lost until Port au Prince was captured. The generals around the President show apathy and will not fight if it becomes necessary, the secretary of the interior having called to acknowledge this. A British war vessel has arrived at Port au Prince.

File No. 838.00/611.

AUGUST 1, 1911—1 P. M.

President Simon has informed the diplomatic corps that he is ready to resign and requests three days' armistice to arrange his affairs and embark on merchant vessel. The diplomatic corps is treating with revolutionists.

File No. 838.00/609.

AUGUST 1, 1911—3 P. M.

The President has requested permission to embark on an American war vessel pending the arrival of the merchant vessel on Friday. The minister asks instructions.

File No. 838.00/610.

AUGUST 1, 1911—6 P. M.

Local revolutionary leaders have promised diplomatic corps to respect armistice.

File No. 838.00/619.

AUGUST 2, 1911—11 A. M.

The main water supply to Port au Prince has been cut off by the revolutionists; they have been informed by the diplomatic corps that it must be repaired at once, as their action is a violation of the armistice. The Government is attempting to obtain all available funds from the bank and has been advised by the diplomatic corps that the armistice comprehends no movement by military or naval forces nor any withdrawal of funds from banks, and that the regulation of current expenses will be a matter for future Governments. The diplomatic corps will use every endeavor to embark the President at the earliest possible moment and arrange a committee to protect the city, as otherwise there is grave danger.

File No. 838.00/609.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 2, 1911—1 p. m.

Mr. Knox instructs Mr. Furniss in reply to his August 1, 1 and 3 p. m., that he may accord temporary refuge to President Simon in the legation if necessary to save innocent human life.

File No. 838.00/615.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, August 2, 1911—4 p. m.

The President embarked this afternoon on the Haitian war vessel formerly the *American* and will await arrival of the merchant vessel on Friday. The city is in charge of a committee of public safety composed of prominent men, who have guaranteed the safety of life and property.

File No. 838.00/618.

AUGUST 3, 1911—7 A. M.

The German war vessel landed about 40 men at 10 o'clock, although there was no apparent necessity for such action, as from personal observation the streets were quiet and deserted.

File No. 838.00/620.

AUGUST 3, 1911—6 P. M.

The President and his family have left the harbor on a Dutch vessel bound for Jamaica; the committee has been recognized on the basis proposed by the diplomatic corps and quiet prevails.

File No. 838.00/625.

AUGUST 4, 1911.

Important military positions were given to Firminists by Simon on the eve of his departure and they are now in control. Several attempts have been made to form committees of public safety that would inspire confidence, but without success, as the Firminists continue to dominate. This makes the situation serious, as Leconte is nearing Port au Prince at the head of the army and will be opposed by local armed force. The diplomatic corps has been unable to conciliate cliques. Pillage, incendiarism, and combats in the streets should not be allowed and in the interest of humanity and to protect life and property of foreigners the minister requests instructions for such contingency.

File No. 838.00/625.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 5, 1911.

Mr. Knox instructs Mr. Furniss, in reply to his August 4, to caution American citizens to observe a strictly neutral attitude and to refrain from all participation in political matters. Telegraphic instructions are being sent to the commanding officer at Port au Prince.

File No. 838.00/625.

The Secretary of State to the Secretary of the Navy.

DEPARTMENT OF STATE,
Washington, August 5, 1911.

SIR: I have the honor to inform you that the Department is in receipt of a telegram from the American minister at Port au Prince to the effect that immediately prior to his departure former President Simon entrusted important military positions to sympathizers of Gen. Firmin, who are now in control; that several attempts have been made to form committees of public safety capable of inspiring confidence, which have failed because the Firminists continue to dominate; that this makes the situation grave, as Gen. Leconte at the head of an army is now approaching Port au Prince and it seems inevitable that he will be opposed by the local armed forces. The minister adds that the diplomatic corps has been unable to conciliate the different factions, and requests instructions in the interest of humanity in order that he may protect life and property

of foreigners should conflict, looting, and incendiarism take place in the streets.

In view of the above I have the honor to request that instructions be sent immediately to the commanding officer at Port au Prince directing him to prevent armed conflict within the city limits of Port au Prince, and to take such further action as may be necessary for the protection of the life and property of American citizens.

I have, etc.,

P. C. KNOX.

File No. 838.00/628.

The American Minister to the Secretary of State.

[Telegrams—Paraphrases.]

AMERICAN LEGATION,
Port au Prince, August 6, 1911—11 a. m.

The general commanding the revolutionary forces which entered the city this morning has been advised by the diplomatic corps that it considers it absolutely necessary that there be no conflict, engagement, or disorder, and counsels against promiscuous shooting, suggesting that soldiers not on duty and civilians be prohibited from circulating with arms; that in case of disorder the representatives of the powers would be obliged to use all the means at their disposal to stop the same.

File No. 838.00/629.

AUGUST 6, 1911—4 P. M.

A proclamation dated Gonaives, August 5, proclaiming Leconte chief of the executive power was read in the streets on the morning of the 6th and accepted with calmness. Leconte entered the city at 12.30 with 300 followers and repaired at once to the cathedral for mass. Quiet prevails.

File No. 838.00/633.

AUGUST 7, 1911.

On the morning of August 7 a mutual friend of the minister and Leconte was sent to assure the minister that there was no truth in the report that he had made an alliance with or promises to Germany, and to affirm that he was most friendly toward the United States and realized that any other policy would be fatal. Leconte expressed a desire to visit the minister, which under the circumstances the latter did not encourage. Mr. Furniss said the Government of the United States desired to see a good stable government in Haiti and would look upon any alliance with European powers as a menace to such. Mr. Furniss says that the Germans have made large advances to the Leconte movement, and he is informed by a bank director that they have offered to lend Leconte about $200,000. He is investigating the matter. The French minister thinks if the loan is made that it should be made through the bank which has French and American interests. Mr. Furniss adds that a loan must be made as there is no money available and there is little revenue left to pledge. Firmin arrived on this date but was not permitted to land.

File No. 838.00/633.

The Secretary of State to the American minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 10, 1911.

Mr. Knox informs Mr. Furniss that his action as reported in his August 7 is approved by the Department, and instructs him to take the first opportunity to make clear to the de facto authorities at Port au Prince that the Government of the United States will insist on the proper safeguarding of all American interests, not only as regards the National Bank of Haiti but also in regard to claims against the Government of Haiti for damages inflicted during the recent revolt. Mr. Knox further instructs Mr. Furniss to take no steps looking to the recognition of a new government until he can communicate satisfactory assurances to this end to the Department.

File No. 838.00/647.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Port au Prince, August 12, 1911.

Mr. Furniss reports that he communicated the Department's August 10 to Leconte through a mutual friend, mentioning also the McDonald and other contracts with Americans which it was reported that Leconte intended to break. Leconte replied with assurances but as the mutual friend was unwilling to accept responsibility Leconte arranged an appointment with the counselor of state at the legation to convey official assurances. The interview took place; the vice and deputy consul were present. The counselor of state said that he was instructed by Leconte to say that loans would be made through the bank and that he would be glad to have as much American capital participate as possible; that he guaranteed protection to all American interests as soon as elected and would equitably adjust claims resulting from the recent revolt. He counted upon the support of the Government of the United States to have the time limit for the settlement of claims extended, so as to give opportunity for an amicable settlement. The election will take place on the 14th. Firmin has withdrawn his candidacy and there will be no opposition to Leconte. Opposition would be useless anyway with the military forces at hand. Information has been received to the effect that the Haitian consul at New York recommended illegal collection of consular invoice fees on the 26th ultimo. French naval vessel *Detress* reached Port au Prince on the 11th.

File No. 838.00/647.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *August 13, 1911.*

Referring to legation's August 12, Mr. Knox informs Mr. Furniss that the Department considers it most important to have the assurances referred to made to him in writing.

File No. 838.00/—.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

PORT AU PRINCE, *August 15, 1911—2 p. m.*

President Leconte was inaugurated on the 15th without incident and the following cabinet was announced: Minister for foreign affairs, Léger; finance and commerce, Lespinasse; public works and agriculture, John Laroche; justice and public instruction, Guilbaud; war and navy, Limage. The Government has advertised for subscriptions to a loan for one and a half million paper, with a guarantee of two-fifths of 25 per cent gold surtax, payable through the national bank, interest at 6 per cent, reimbursement at premium, 250; that is 100 less than the rate this date.

File No. 838.00/651.

AUGUST 15, 1911—5 P. M.

Refers to Department's August 13. The following note under to-day's date received from the counselor of state:

Replying to your letter of yesterday I am pleased to assure you that the government of Gen. Leconte will consider it an honor faithfully to fulfill all engagements regularly and legally entered into in the name of the Republic, and that the interests of the United States as well as all others will be the objects of his protection; and that you may be certain that any claims produced will be examined with the greatest impartiality. Gen. Leconte on his part hopes to be able to count on the sincere support of the heads of missions in order to obtain from their citizens the invariable respect for the laws through which they expect to obtain protection, violation of which his Government is firmly resolved never to allow. It is my profound conviction that in this as well as in all other relations the kind assistance of the American Legation and the other legations will not be wanting.

Mr. Furniss adds that none of the diplomatic corps have been instructed to recognize the Government, and that some are awaiting the action of the United States. The cabinet that has been chosen is strong and very favorable to American interests; that Léger, formerly Haitian minister at Washington, is in accord with the policy outlined in the above note and is very desirous that the United States recognize Leconte as soon as possible.

File No. 838.00/660.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 18, 1911.

Mr. Knox informs Mr. Furniss that if he is satisfied that the Government of Gen Leconte is in full possession of the machinery of government with the acquiescence of the people of Haiti and is in a position to meet the international responsibilities he is authorized to enter into full relations with it, and that he may so inform the Haitian minister for foreign affairs.

File No. 838.00/661.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

PORT AU PRINCE, *August 19, 1911.*

The minister says he will recognize the Government of Gen. Leconte, in accordance with the Department's instructions, and suggests that in the course of the day an American warship be instructed to fire a salute.

File No. 838.00/672.

AMERICAN LEGATION,
Port au Prince, August 21, 1911.

No. 923.]

SIR: I have the honor to state that upon receipt of the Department's August 18, on the morning of the 19th I sent word to Mr. Léger, secretary of foreign relations, that I was ready to recognize the Leconte Government. During the morning hours he called in person and later made arrangements for me to call upon him at his department and accompany him to the Palace, where I was presented to President Leconte.

The reception was very cordial. While I had never met Mr. Leconte before, I have received letters from him and I was well acquainted with most of his cabinet and those near him.

President Leconte spoke of his desire to have a good administration. He said that his appointments to office would be with that in view. He was particularly desirous that the customs should be properly administered and that foreigners and Haitians should be dealt with justly. He spoke of his admiration for the American Government, and expressed the wish that it would by its moral support assist him in having good government.

I assured him that the American Government was ever ready in so far as it could to assist him in having good government; that the American Government was the friend of Haiti and as such was very desirous that Haiti should progress; that American capital was ready to develop Haitian resources, and that with honest administration there was sure to be progress.

I have, etc.,

H. W. FURNISS.

HONDURAS.

REVOLUTION IN HONDURAS—FRIENDLY MEDIATION OF THE UNITED STATES—RESIGNATION OF PRESIDENT DAVILA—CONGRESSIONAL ELECTION OF DR. FRANCISCO BERTRAND AS PROVISIONAL PRESIDENT—NATIONAL ELECTION OF PRESIDENT MANUEL BONILLA—STATUS OF THE SHIP HORNET—PROSECUTION OF CITIZENS OF THE UNITED STATES FOR ENGAGING IN ILLEGAL EXPEDITION.

File No. 7357/776.

The American Minister to the Secretary of State.

[Extracts.]

AMERICAN LEGATION,

No. 47.] *Tegucigalpa, July 28, 1910.*

SIR: I have the honor to report that on the 18th instant the Government received information that Lee Christmas was enlisting men at Point Manabique, Guatemala, for an invasion of Honduras in the interest of former President General Manuel Bonilla who, since his overthrow in 1907, has resided in Belize. Gen. Bonilla left Belize on the night of the 20th.

On the morning of the 22d an attack was made on the barracks at Puerto Cortes. The leader, Gen. Ramon Octavio Marin, was killed and several of the attacking party captured. On the body of Gen. Marin were found instructions from Gen. Bonilla showing that simultaneous attacks were planned on Ceiba and Puerto Cortes.

On the 24th a schooner attempted to land men at Puerto Cortes. Shots were exchanged with the shore and the boat sailed toward Cayos Zapotillos, which belong to Great Britain. The Government communicated to the governor of Belize its suspicion that these cays were being used as a base by Gen. Bonilla.

On the 24th the Government of Guatemala, replying to a telegram of the minister for foreign affairs of Honduras, stated that orders had been issued to prevent the organization by Christmas in Guatemala or the departure therefrom of an expedition to invade Honduras.

I have, etc.,

FENTON R. MCCREERY.

File No. 815.00/792.

No. 51.] TEGUCIGALPA, *August 11, 1910.*

SIR: Referring to my No. 47 of the 28th ultimo, I have the honor to report that from the instructions sent by Gen. Bonilla to Gen. Ramon Octavio Marin, chief of the insurgent forces, it appears that it was planned to take possession of the railroad which extends from

Pimienta to Puerto Cortes. From the letter of Gen. Marin to Gen. Bonilla it appears that the assistance of a number of Americans was expected; that the delivery of the railroad telephone line was arranged for and the use of several locomotives. The railroad is leased and operated by Americans. This, together with suspicions aroused before the movement, will explain the arrest of Americans connected with the railway. The Government has proceeded deliberately and calmly and has shown the best disposition toward foreigners. The Government has consulted me and invited suggestions as to the most desirable procedure in connection with suspected Americans who had been arrested.

I have, etc.,

FENTON R. MCCREERY.

File No. 815.00/843.

[Telegram—paraphase.]

AMERICAN LEGATION,
Tegucigalpa, November 3, 1910.

Mr. McCreery reports an interview with the President at the latter's request. Later he received a note in the form of a memorandum sent by direction of the President stating that the memorandum contained in concrete form the ideas expressed at the interview, a translation of which is as follows:

MEMORANDUM.

The commerce of the south and east of the country has been paralyzed by the rebellion of Gen. José Maria Valladares; the lives and property of foreigners are in danger, and as the port of Amapala has been declared closed nationals will consequently suffer because of the lack of means of subsistence. The landing of the rebel chief on the mainland and the disturbance of the rest of the Republic can be prevented by the Executive, but he can not attack the rebel commander on the island where he now is on account of the lack of boats. The Government of Honduras therefore asks the decisive cooperation of the United States as a service to the foreign residents at the port, and at the same time to end the difficult situation created by the rebel commander and establish legitimate authority.

File No. 815.00/904.

The Honduran Legation to the Department of State.

LEGATION OF HONDURAS,
Washington, December 8, 1910.

AIDE MEMOIRE.

The minister of Honduras presents his compliments to his excellency the Secretary of State, and has the honor to inform him that since their last interview he has received from New Orleans the following news in regard to the projected invasion of Honduras:

Gens. Manuel Bonilla and Lee Christmas, supposed to have been expelled from Guatemala, are now in New Orleans preparing the new invasion of Honduras. They have either chartered through

other persons or bought the steamship *Hornet*, which will sail from that port for Livingston (Guatemala) with a cargo supposed to be general merchandise. It is said that before reaching Livingston she will meet another boat and take on board a number of men which are now being recruited in this country by Gen. Lee Christmas, and at Livingston she will take on board arms and ammunitions.

File No. 815.00/904.

The Department of State to the Honduran Legation.

DEPARTMENT OF STATE,
Washington, December 12, 1910.

[Aide Memoire.]

The Acting Secretary of State presents his compliments to the minister of Honduras, and has the honor to inform him that the Department of State has communicated to the proper authorities of the United States the information contained in the minister's aide memoire of the 8th instant relative to an expedition against Honduras which Gens. Manuel Bonilla and Lee Christmas are said to be preparing to send from New Orleans on board the steamer *Hornet*.

File No. 815.00/929.

The American Minister to Guatemala to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Guatemala, December 21, 1910.

Mr. Hitt says he is in receipt of a telegram from the consular agent at Livingston which states that rifles and ammunition were placed on board the *Centenalla* on the 16th, and that she proceeded to Manambique Point, where it is supposed she still was on the 19th; that the *Emma* left Livingston, proceeding in the direction of Graciosa Bay, with arms; that it is reported that 45 Hondurans left for Graciosa Bay; that 25 Honduran strangers who arrived in Livingston on the 19th are expected to leave at any moment; that it is reported that the *Hornet* is expected, and that the Guatemalan minister for foreign affairs promises adequate measures. Mr. Hitt has telegraphed the above information to the American minister to Honduras.

File No. 815.00/937.

The Honduran Legation to the Department of State.

LEGATION OF HONDURAS,
Washington, December 26, 1910.

[Aide Memoire.]

The minister of Honduras presents his compliments to his excellency the Secretary of State and has the honor to inform him

that Gens. Manuel Bonilla and Lee Christmas, leaders of the Honduran revolutionists, left New Orleans on Friday the 23d and probably on board the steamship *Hornet*.

File No. 815.988.

The American Minister to the Secretary of State.

[Extract.]

No. 112.] AMERICAN LEGATION,
Tegucigalpa, December 27, 1910.

SIR: I have the honor to inclose a copy and translation of a telegram, dated the 22d instant,[1] from the acting minister for foreign affairs of Honduras to the minister for foreign affairs of Guatemala, stating that information had been received that Honduran exiles embarked in Puerto Barrios for Punta Manambique where, under command of Gen. Andrés Leiva, they awaited orders from Gen. Manuel Bonilla to invade this country, and that war supplies for the movement had been received by the exiles from Guatemalan ports. The telegram expresses confidence that the Government of Guatemala will not tolerate the organization in Guatemala of a revolutionary movement against Honduras that would result in increasing the discredit of Central America; and expresses the hope that the necessary measures will be taken to prevent the invasion.

The reply of the minister for foreign affairs of Guatemala states that the Honduran leaders mentioned were in Guatemala City, and that the Government of Guatemala, anxious to comply with the treaties of Washington, will take the necessary measures against the plans of these gentlemen.

I have, etc.,

FENTON R. MCCREERY.

File No. 815.00/1000.

The Honduran Minister to the Secretary of State.

[Translation.]

LEGATION OF HONDURAS,
Washington, January 18, 1911.

Mr. SECRETARY: I have the honor to inform your excellency that it appears from official telegraphic reports received last evening that the owners of the *Hornet*, in the service of the Honduran revolution led by Gen. Manuel Bonilla, have made a pretended sale of the said vessel before the judge of Roatan in favor of the above-named general. The purpose of the said simulated sale is to prevent its capture by the American cruisers for infringement of the neutrality laws, but my Government is ready to prove that the sale is void and hopes that this sham will not stand in the way of the execution of the measures ordered by the Department.

I renew, etc.,

LUIS LAZO A.

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[1] Not printed.

File No. 815.00/1000.

The Secretary of State to the Honduran Minister.

No. 20.] DEPARTMENT OF STATE,
Washington, January 19, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, in which you protest against the alleged recent registration of the steamer *Hornet* at Roatan as a Honduran vessel.

In reply I have the honor to inform you that a copy of your note has been sent to the Attorney General for his information, with the request that it be considered in connection with the investigation by the Department of Justice of the question of violation of the neutrality laws of the United States by the *Hornet*.

Accept, etc.,

P. C. KNOX.

File No. 815.00/1005.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Tegucigalpa, January 20, 1911—8 a. m.

A hundred men have gathered near Camayagua, who have evidently expected an uprising in that city and whom the Government claims to have surrounded; no uprisings have occurred in the Republic.

File No. 815.00/1123.

[Extract.]

No. 122.] AMERICAN LEGATION,
Tegucigalpa, January 25, 1911.

SIR: I have the honor to inclose herewith copy and translation [1] of an official statement published in La Prensa of yesterday of the events leading up to the movement headed by ex-President Manuel Bonilla, its inauguration and progress, and the present situation in the Republic.

It appears from the statement that J. W. Beer purchased the steamer *Hornet* from a New Orleans firm and placed it at the disposal of Gen. Bonilla. In the statement are incorporated telegrams from the consul of Honduras at New Orleans reporting that the agents of Bonilla represented that an expedition had been arranged; that Gens. Bonilla and Christmas left New Orleans probably on the *Hornet*, which sailed for Cabo Gracias on the 24th ultimo; and that the United States Government had ordered that any filibustering vessel be captured. On the 6th instant the Honduran consul at Belize telegraphed that the *Hornet* was in Roatan. The expedition of Gen. Bonilla left Roatan aboard the *Hornet* and captured Trujillo on the 10th instant.

[1] Not printed.

On the 11th the President of Salvador expressed his interest in the peace of Honduras in a telegram addressed to the President of Honduras.

The minister of Honduras at Washington cabled on the 16th instant that the Department had repeated instructions to its agents in Managua and Guatemala to prevent violation of neutrality.

The President of Nicaragua on January 17 informed the President of Honduras of the absolute neutrality of Nicaragua and of the measures taken by him to prevent any action which might tend to assist the Honduran revolutionists.

Telegrams from the commandants at Amapala and Puerto Cortes and the minister at Washington report the detention of the *Hornet* at Trujillo and the unloading from the steamer *Fjell*, at Puerto Cortes, of coal alleged to have been destined for the *Hornet*.

I have, etc.,

FENTON R. MCCREERY.

File No. 815.00/1124.

Congressional decree declaring martial law.[1]

[Translation.]

The National Congress, considering that the territory of the Republic has been invaded by Gen. Manuel Bonilla with the object of overthrowing the constitutionally established Government, whereby it is necessary to invest the Executive with the extraordinary powers which the martial law confers upon him for the re-establishment of peace,

Decrees: That the Republic is declared to be under martial law from this date.

Given in Tegucigalpa on the twentieth day of January, nineteen hundred and eleven.

FRANCISCO ESCOBAR,
President of the Congress.

File No. 815.00/1034.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Tegucigalpa, January 27, 1911.

Mr. McCreery says the Government of Honduras is informed that Gen. Bonilla has taken Ceiba and that San Marcos de Colón, on the Nicaraguan border, has been taken by his partisans.

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[1] Transmitted by the American Minister in dispatch No. 123 of Jan. 25, 1911.

File No. 815.00/1041.

The President of Honduras to the President of the United States.

[Telegram.]

NATIONAL PALACE,
Tegucigalpa, January 28, 1911.

The Government is resolved to approve convention and loan. To that end, it is necessary that hostilities be suspended to avoid useless bloodshed. If Your Excellency can lend your valuable intervention for the purpose of terminating the war, the people and Government of Honduras will have cause to be grateful once more to the United States and its worthy Chief Magistrate for the great interest they take in the tranquility and prosperity of this country.

I am, etc.,

MIGUEL R. DÁVILA.

File No. 815.00/1040.

The American Minister to the Secretary of State.

[Telegrams—Paraphrases.]

AMERICAN LEGATION,
Tegucigalpa, January 29, 1911.

Mr. McCreery says, in reference to the telegram sent January 28 by the President of Honduras to the President of the United States, that President Dávila desires the United States to act as arbitrator in the present situation; that he could call his country to arms and oppose Bonilla at a cost of life and money, but he is willing to deliver the Presidency to some competent man agreed upon who is not a declared candidate; that he will retire only on condition that the United States name or at least approve the nomination of the President for the next term; and that if Bonilla would also make a sacrifice it would be a benefit to the country.

File No. 815.00/1037.

JANUARY 29, 1911.

A convenient order of procedure would seem to be: Armistice; approval of convention by Congress; and an agreement as to the presidency.

File No. 815.00/1038.

JANUARY 29, 1911.

The President states that the orders of the commanders of the English and American naval vessels in Puerto Cortes to restrict Government troops to a neutral zone separated from its bases places the troops at a great disadvantage. The Government is making every effort to raise men. The President repeats that he is ready to deliver the presidency to any person designated by the United States.

File No. 815.00/1051.

JANUARY 30, 1911.

Under article 90 of the constitution three persons are designated annually by Congress to exercise executive power in case the presidency and vice presidency become vacant. As these designations should be made by February 1, the President of Honduras desires the United States Government to approve the designates, as he feels that this is the only way his retirement can benefit the country, and if the war is fought to the end the result will be loss of life and property and Honduras will be the loser, whatever the outcome.

File No. 815.00/1054A.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 31, 1911.

Mr. Knox instructs Mr. McCreery to inform the President of Honduras that the following telegraphic instruction was sent on this date to the commanding officer in Honduran waters:

You are authorized to take such military measures as may be necessary to prevent any fighting in Puerto Cortes, and you may accept the cooperation of the British commander in such measures.

In notifying Manuel Bonilla that the whole city of Puerto Cortes is to be treated as noncombatant ground, you will urge upon him an immediate armistice, assuring him, in that case, of the impartial good offices of the United States, and impress upon him that in offering its mediation to prevent further useless bloodshed the Government of the United States is actuated by a desire to serve the best interests of Honduras by measures tending to prevent violation of the neutrality laws of the United States and in accordance with the moral relation of the United States Government to the situation under the Washington conventions, as well as to protect its own interests; that in now placing itself at the disposition of both parties to compose by peaceful means a disastrous controversy the Government of the United States stands ready to seek to secure terms satisfactory to both, including such settlement of any question of the presidency as would best represent the will of the people of Honduras and the legitimate aspirations of all parties, consistent with adequate guaranties of peace and stability.

Inform Bonilla that a similar communication has been sent to President Dávila and say that the decks of the American naval vessels present will be offered for the purpose of negotiations in the presence of a representative of the United States, whose kindly counsel will be at the disposition of both parties.

File No. 815.00/1229.

The President of the United States to the President of Honduras.

[Telegram.]

THE WHITE HOUSE,
Washington, January 31, 1911.

I have received Your Excellency's telegram as evidence of your sincere desire to prevent useless bloodshed and disastrous waste of the already depleted resources of your country and as a fresh token of your appreciation of the fact that the Government of the United States is animated solely by a sincere desire to do what it can, within proper limits, to further the prosperity and welfare of the people of Honduras.

The importance of the loan negotiations to which you allude lies in their being a contributory means to the same end and this Government's interest is because their object commends itself alike to all true friends of the people of Honduras for whose benefit, and only with whose sanction, its consummation is desired.

You will have learned from our minister of what this Government has been able to do in offering its good offices to secure peaceful adjustment of the pending difficulties and to prevent fratricidal conflict.

WM. H. TAFT.

File No. 815.00/1104A.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1911.

Mr. Wilson says the following telegram has been sent to the commanding officer in Honduran waters for his information and guidance, the text of which is to be transmitted to Gen. Bonilla and likewise to President Dávila:

Relying upon the patriotic aims of the two parties in Honduras, and upon their conciliatory attitude which has been evidenced by the signing of an armistice, Mr. Thomas C. Dawson, of the American Diplomatic Service, has been instructed by the President to proceed to Puerto Cortes at once as representative of the United States Government and place himself at the disposition of the contending parties to facilitate an equitable adjustment of the contentions that so seriously injure the welfare and peace of Honduras.

File No. 815.00/1189A.

The Acting Secretary of State to the Special Commissioner.

DEPARTMENT OF STATE,
Washington, February 11, 1911.

THOMAS C. DAWSON, Esq.,
Washington, D. C.

SIR: You have been designated special commissioner of the United States, and you are instructed to proceed at your early convenience to Honduras by way of New Orleans, La., and Puerto Barrios, Guatemala, availing at the latter place of a war vessel of the United States, to which proper instructions have already been issued to convey you to Puerto Cortes, Honduras. On your arrival there you will at once communicate with the representatives of the Government of Honduras and of the insurrectionist party, respectively, and you will use your impartial good offices to compose, by peaceful means, the controversy between them.

In pursuance of your mission you are instructed to invite the representatives of the Government and insurrectionist parties to meet, in the presence of yourself as the representative of the United States, on the decks of the American naval vessels in Honduran waters, and you will place your kindly counsel at the disposition of

both parties in order to secure a peaceful adjustment of the pending difficulties and to prevent the useless shedding of blood in a fratricidal conflict.

For your information and guidance I inclose herewith copies of telegraphic correspondence relative to the proposed mediation by the United States. As you are already familiar with them, the views and desires of this Government will doubtless sufficiently appear from the above outline, and further instructions will be sent to you from time to time.

You will keep the Department fully advised as to the situation, and when your presence is no longer necessary in Honduras you are authorized to return to the United States directly or by way of Guatemala City, at your discretion.

You will be entitled to draw upon the Secretary of State for your actual and necessary traveling and living expenses while engaged in your mission.

I am, etc.,

HUNTINGTON WILSON.

File No. 815.00/1134A.

The Secretary of State to the Special Commissioner.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 21, 1911.

Mr. Knox refers to the Honduran Loan Convention pending in the Senate and the Bankers' Agreement and Fiscal Agreement which were executed February 15, and says the Department is unofficially informed of the indictment of Bonilla, Christmas, and others, by the grand jury at New Orleans for breach of United States neutrality statutes in the *Hornet* case. Mr. Knox informs Mr. Dawson that as the said judicial proceedings are quite independent of the Department it will hardly be necessary for him to explain that the situation referred to above will not influence the attitude of the Government of the United States in the impartial discharge of its good offices at the conferences where he will represent the United States and seek to adjust the differences existing between Gen. Bonilla and President Dávila.

File No. 815.00/1284.

Extract from the minutes of the peace conference held at Puerto Cortes on board U. S. S. "Tacoma."[1]

INAUGURAL SESSION.

The commission named to compose the peace conference met at Puerto Cortes, Republic of Honduras, on board the American war vessel *Tacoma*, February 21, 1911, for the purpose of reaching an amicable termination of the civil war which is at present agitating the country.

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[1] Transmitted by the Special Commissioner in his report, dated April 30, 1911.

The commissioners so named, and their secretaries, were: The Hon. Thomas C. Dawson, special commissioner of the Government of the United States; the Hon. Dr. Alberto Membreño and the Hon. Dr. Fausto Dávila, commissioners of the provisional government of Gen. Manuel Bonilla; the Hon. Gen. Máximo B. Rosales, commissioner of the government of Don Miguel R. Dávila; Don Claude I. Dawson, secretary of the commissioner of the United States of America; Dr. Francisco A. Matute and Manuel F. Barahona, secretaries of the commissioners of the revolution and of the Government, respectively.

1. The commissioners and the secretaries exhibited their powers, which, being in due form, were mutually accepted.

2. Mr. Dawson stated that the object of the conference was well known to all; he cherished the hope that it would have the most complete success, reestablishing peace in Honduras in order to avert unnecessary shedding of blood and as a guarantee of the national interests; the Government of the United States had offered to lend its good offices in order to reach that end, without preference of either of the contending parties; he read his instructions to that effect.

3. Mr. Dawson was elected to preside.

4. The president asked the commissioners of the revolution and of the Government to express their ideas concerning the situation of the country from the point of view of their instructions. The commissioners thereupon stated the desires of their constituents.

5. Adjourned.

NINTH ORDINARY SESSION.

The session was opened March 3, 1911, Mr. Dawson presiding.

1. The minutes of the preceding session were read and approved without discussion.

2. The commission took up the draft of an agreement to be proposed to the respective constituents, which was approved after a short discussion, and is as follows:

The conference agrees that the candidate for provisional president, which it approves, shall have the support of all the political factions of the country that are allied with the Government and the revolution, in order to facilitate practically and efficiently the discharge of his functions and lead to their complete success.

ARTICLE I. The provisional government will be obligated:

(*a*) To introduce in the National Congress a bill of amnesty, covering military and political crimes and offenses related to politics, the Government being obligated to make a law of amnesty which shall be practical and effective.

(*b*) To guarantee absolute liberty to all political parties, and to Hondurans in general, in the approaching elections for supreme and local authorities; and to guarantee to an equal degree other public liberties in conformity with our laws.

(*c*) To recognize and pay the debts of the Government and of the Revolution and the losses suffered as a result of the present civil wars.

(*d*) To grant pensions to the disabled and to discharge and pay the forces of the Government and of the Revolution.

(*e*) To organize the Government and the public administration with persons of well-known integrity, without taking into account their political affiliation, and to this end treating and considering the friends of the Revolution and of the Government on the basis of perfect equality.

(*f*) The provisional President will form the cabinet distributing the portfolios equally among friends of the Government and of the Revolution. In case of resignation of one or more of the ministers, they will be replaced in conformity with this stipulation.

ARTICLE II. The Congress now in session will call an election for the national officers, which election will be held in October of this year.

ARTICLE III. The Government organized by virtue of the election had in conformity with the preceding article, will carry out the obligation imposed by paragraph C.

ARTICLE IV. The provisional government as well as that organized as a result of the elections of October next will respect the promises of the Government and of the Revolution.

ARTICLE V. The forces of the Government and of the Revolution will deposit their arms, which, together with the war material of both armies in campaign will be deposited as follows: (*a*) The revolutionary forces that operate in the north coast will deposit the war material in La Ceiba and Puerto Cortes; (*b*) The forces of Gen. Tiburcio Carias Á will deliver their arms and war material in Comayagua; the forces under the immediate command of Gen. Gutierrez, in Tegucigalpa; the other forces which obey the orders of the same chief, where most convenient; the forces under command of Gen. Salamanca, in Choluteca; the forces of Gen. Francisco Lopez, in Santa Barbara; (*c*) The revolutionary forces under command of Col. Marin, in Danli or Yuscaran, and the revolutionary forces that operate in the Departments of Yoro and Olancho in Yoro and Juticalpa.

ARTICLE VI. The conference recommends to the provisional government the settlement of the public debt, as a means of recovering the national credit, which is without doubt indispensible for the development of the country.

ARTICLE VII. The honor and patriotism of the provisional government and of all Hondurans guarantee the strict fulfillment of this agreement, which has for its highest aim the securing and retention of public tranquility and the constant promotion of concord in the Honduran family.

3. The president stated that, referring to the matter mentioned in point 6 of the minutes of the third session and in deference now to the repeated requests of both delegations, that he should give to the conference his opinion concerning the candidate of the six proposed that would be most desirable for the general interests of Honduras, and said that he believed that Dr. Francisco Bertrand is the best, under all aspects and conditions, so far as he could judge from what had been said and discussed in the 10 days of sessions during which this conference had continued.

4. The session was adjourned to March 4, 1911.

File No. 815.00/1157.

The Special Commissioner to the Secretary of State.

[Telegram—Paraphrase.]

PUERTO CORTES, *March 4, 1911.*

Mr. Dawson reports the receipt of a telegram of this date from Dávila accepting the peace arrangement; that the President and Vice President are expected to resign and that Congress will elect Bertrand as first designate.

File No. 815.00/1235.

The Special Commissioner to the American Minister.

[Telegram.]

PUERTO CORTES, *March 4, 1911.*

Having satisfactorily attained its principal object, the peace conference suspended its sessions to-day to meet at chairman's call.

President's telegram of approval reached his representative, also other telegrams expressing satisfaction. The representatives believe prompt cooperative action by Congress desirable.

Direct telegraphic communication from Ceiba and here to Paraiso Department is difficult and uncertain; therefore the representatives request that you communicate to the revolutionary leaders there that conference has agreed that peace is assured and urging suspension of their military operations in accordance with bases.

Copy of latter has been telegraphed to President.

THOMAS DAWSON.

File No. 815.00/1165.

The Special Commissioner to the Secretary of State.

[Telegram—Paraphrase.]

PUERTO CORTES, *March 7, 1911.*

Mr. Dawson says Bertrand was elected first designate by Congress on this date; that the Vice President was expected to arrive at the capital the following day; and that many of the Government forces were retiring for the purpose of disarmament. Adds that he will arrive in Washington March 19.

File No. 815.00/1180.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Tegucigalpa, March 10, 1911.

Mr. McCreery says the President has sent a communication to the conference in which he states that he will resign and leave the Vice President to face the situation, or that he will deliver the presidency to Bertrand before the Congress at Tegucigalpa. The conference resolved that the oath of office should be taken by the new Executive in Puerto Cortes and that Dávila should act as military commander unitil his arrival in Tegucigalpa. Mr. McCreery has suggested to Mr. Dawson as a barely possible compromise the immediate resignation of the Vice President, the military command and stores of department to be delivered to second designate, the immediate departure of the first designate for the capital and a solemn inauguration on his arrival to be participated in by all parties.

File No. 815.00/1235.

No. 145.] AMERICAN LEGATION,
Tegucigalpa, Honduras, March 12, 1911.

SIR: I have the honor to inclose a copy of a telegram[1] requesting me in the name of the peace conference at Puerto Cortes to communicate to the revolutionary leaders in the Department of Paraiso that the conference had agreed that peace was assured and to urge suspension of their military operations in accordance with the bases. I inclose a copy of my communication of the 5th instant[1] addressed

[1] Not printed.

to the commanders which, together with the bases, was telegraphed for delivery as far as the lines were open.

Mr. Henry P. Lewis overtook the revolutionists to the number of about 1,000 at Santa Lucia, 9 miles from this city. Mr. Lewis delivered my communication, made at the request of the conference, to Gen. Antonio M. Monterroso, general in chief, in the presence of other Bonilla commanders.

In this connection it might be mentioned that the armistice went into effect on February 8 and the bases were signed on March 3.

I have, etc.,

FENTON R. McCREERY.

File No. 815.00/1187.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Tegucigalpa, March 13, 1911.

Mr. McCreery refers to his March 10, and says, after a conference with the President, he was able to telegraph Mr. Dawson that the President would instruct his representative in the conference to propose the immediate resignation of the Vice President, the delivery of command of all Government forces to Rafael López Gutiérrez, the inauguration of Bertrand at Tegucigalpa, and that practical arrangements for disarmament was important. The conference and Dr. Bertrand had accepted the proposal on this date.

File No. 815.00/1221.

The Secretaries of the Peace Conference to the President of the United States.

[Translation.]

PUERTO CORTES, HONDURAS, *March 14, 1911.*

EXCELLENCY: In compliance with special instructions from the peace conference, we have the honor to transmit to you the following:

Tenth ordinary session. The session opened on the 4th of March, 1911, on board the *Tacoma*, in Puerto Cortes. The Hon. Thomas C. Dawson presided, assisted by the Delegates Membreño Dávila and Rosales and the undersigned secretaries.

The proceedings were as follows:

* * * * * * *

11. It is the desire of the delegation to put on record the following resolution:

(*a*) To give a vote of thanks to the President of the United States of America, the Hon. William H. Taft, for his friendly mediation toward the reestablishment of peace in the Republic of Honduras.

With assurances of respectful consideration for Your Excellency, we are, etc.,

Dr. F. A. MATUTI.
CLAUDE I. DAWSON.
MANUEL F. BARAHONA.

File No. 815.00/1188.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Tegucigalpa, March 14, 1911.

Mr. McCreery says he is advised by the President of Honduras that Congress has accepted the resignation of the Vice President, that Gen. Rafael López Gutiérrez has been given command, and that Gen. Carias has ordered his troops to Comayagua from Santa Cruz in accordance with peace agreement.

File No. 815.00/1194.

The Special Commissioner to the Secretary of State.

[Telegram—Paraphrase.]

PUERTO CORTES, *March 16, 1911.*

Mr. Dawson says the Vice President has resigned, Dávila is under pledge to retire, and as Bertrand has been elected first designate he becomes Constitutional President upon his arrival at the capital.

File No. 815.00/1193.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Tegucigalpa, March 17, 1911.

Mr. McCreery says at yesterday's session the conference extended to him a vote of thanks for his efficacious and opportune services to the body in its labors for peace.

File No. 815.00/1254.

[Extract.]

No. 160.] AMERICAN LEGATION,
Tegucigalpa, Honduras, March 25, 1911.

SIR: I have the honor to report that this afternoon the diplomatic and consular corps rode out some three miles to meet the President Designate. Dr. Bertrand was accompanied by about 300 persons, including the members of the peace conference, friends, delegations from the Congress, the Executive and the Supreme Court, and some 50 armed men. As we approached the city the cavalcade increased in numbers. First rode a small troop of cavalry. Next came Dr. Bertrand, on a white mule. I rode on his right, the Mexican minister on his left, and heads of delegations on either side. The streets were filled with people. An expression of relief, of satisfaction, and almost of joy was seen on every face. Perfect order prevailed.

All political factions cooperated to bring about the first peaceful entrance of a new executive that the capital of Honduras has seen in many years.

I have, etc.,

FENTON R. MCCREERY.

File No. 815.00/1221.

The Secretary of State to the Secretaries of the Peace Conference.

DEPARTMENT OF STATE,
Washington, March 28, 1911.

GENTLEMEN: I have the honor to acknowledge the receipt of your communication of the 14th instant in which, in fulfillment of special instructions of the peace conference at Puerto Cortes, you quote the resolution adopted by the delegates thereto at their meeting on March 4: "To give a vote of thanks to the President of the United States of America, the Hon. William H. Taft, for his friendly mediation toward the reestablishment of peace in the Republic of Honduras."

Having laid your communication before the President, I am happy to discharge the duty he has entrusted to me by making known to you, and through you to the honorable delegates, his high appreciation of their courteous recognition of his friendly efforts toward the settlement of the differences which have disturbed the peaceful progress of a Republic whose welfare and prosperity he has so much at heart.

In the fervent hope that the labors of the conference will result in that stability of government so necessary to the happiness and well-being of the Honduran people,

I have, etc.,

P. C. KNOX.

File No. 815.00/1266.

The American Minister to the Secretary of State.

No. 163.] AMERICAN LEGATION,
Tegucigalpa, April 1, 1911.

SIR: I have the honor to inclose copy and translation of a manifesto to the nation issued by President Bertrand on the 29th ultimo.[1]

The President states that the government of Gen. Dávila and the provisional government of Gen. Bonilla have given to the country unequivocal proofs of abnegation and patriotism by submitting their differences to a peace conference which met in Puerto Cortes aboard the *Tacoma* under the presidency of a delegate of the Government of the United States, who acted as friendly mediator; that the outcome of the conference was his designation for the presidency and the bases which will serve as guide for his Government; that he considers his Government as truly national; that his Government will have only time to put into practice the bases which constitute his political and administrative program, but that it will, in so far as possible, attend to all branches of the public service.

The President invites all Hondurans to forget past differences, to support the Government, and thus united work for the best interests of Honduras.

I have, etc.,

FENTON R. MCCREERY.

[1] Not printed.

File No. 815/1245A.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 11, 1911.

Mr. Knox instructs Mr. McCreery to ascertain if the Honduran Government desires to regularize the status of the *Hornet* as a vessel of Honduras by formal change of registry, and whether the purchase is to be consummated; and directs him to explain that it is a matter of indifference to the Government of the United States, as it should be remembered that the United States only took such action as was necessary to prevent the *Hornet* from engaging in hostilities pending the investigation of the Department of Justice, but that it will be prepared in the second alternative to assist the Government of Honduras in restoring the vessel to its former status by returning it to New Orleans. Mr. Knox further informs Mr. McCreery that the President has directed the Department of Justice to give instructions to the appropriate official to nolle prosse the indictment against Gen. Manuel Bonilla; but that the indictment must stand against the American citizens charged with implication in the *Hornet* or other illegal expeditions, as the Government of the United States is determined to exercise hereafter even greater vigilance to prevent disturbances of the peace of Central America through activities within the jurisdiction of the United States.

File No. 815.00/1326.

The American Chargé d'Affaires to the Secretary of State.

No. 211.] AMERICAN LEGATION,
Tegucigalpa, July 25, 1911.

SIR: I have the honor to report that the period of martial law, extended by presidential decree on May 19, was to-day declared terminated by public proclamation as of date of July 20.

I have, etc.,

J. BUTLER WRIGHT.

File No. 815.00/1393.

[Extract.]

No. 44.] AMERICAN LEGATION,
Tegucigalpa, November 1, 1911.

SIR: I have the honor to report that the national elections were held in this country on Sunday, Monday, and Tuesday, the 29th to 31st ultimo, inclusive. Gen. Manuel Bonilla and Dr. Francisco Bográn are declared to have been chosen President and Vice President, respectively.

I have, etc.,

CHARLES D. WHITE.

ITALY.

WAR BETWEEN ITALY AND TURKEY—DECLARATION OF NEUTRALITY OF THE UNITED STATES.

File No. 765.67/42.

The Italian Chargé d'Affaires to the Secretary of State.

DECLARATION OF THE ITALIAN GOVERNMENT.

ITALIAN EMBASSY,
Washington, September 30, 1911.

By order of his Government the Italian chargé d'affaires has the honor to make the following declaration to the Federal American Government:

The Government of the United States is already aware of the questions regarding Tripolitania and Cyrenaica which have for a long time been the subject of discussion between Italy and Turkey. The negotiations which have resulted from the many incidents which have occurred bear witness to the patience and consideration which have guided the Royal Government until now in its efforts to secure by amicable means redress for its wrongs. The situation has, however, only grown worse to such an extent that further negotiations would be as dangerous as useless. The Royal Government would have failed in its first duty by further postponing the carrying out of the measures necessary for the direct protection of the dignity of the Kingdom and of the rights and interests of its nationals. Suggestions were recently made to the Ottoman Goverment looking to the bringing about of this desired object by common accord. The plan was to bring about the Italian occupation of Tripolitania and Cyrenaica, and to determine by a later agreement the final position of these countries. This final effort having likewise failed, the Royal Government has been under the painful necessity of resorting to the force of arms to attain its object.

Italy, therefore, now finds itself in a state of war with Turkey, and a formal declaration to this effect has just been addressed to the Sublime Porte.

The Government of the King has the honor to communicate this to the Government of the United States in accordance with the provisions of the International Convention of The Hague of October 17, 1907.

The object pursued by the Italian Government coincides with the interests of all the foreigners residing in Tripolitania and Cyrenaica and with the interests of civilization, the benefits of which it hopes to assure to regions neglected for so long a time, and in which the economic activity of the nationals of all countries can develop without hindrance, because of the régime of liberty and progress which the Royal Government has the intention of there establishing.

The Royal Government therefore expresses the firm confidence that the sympathies of the nations will not fail to follow the accomplishment of its task.

File No. 765.67/131a.

The Acting Secretary of State to the American Chargé d'Affaires at Rome.

DEPARTMENT OF STATE,
October 27, 1911.

SIR: I inclose herewith fourteen copies of the proclamation of neutrality in the present war between Italy and the Ottoman Empire, issued by the President on the 24th instant.

It is desired that you send one copy to each of the American consular officers in Italy.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a state of war unhappily exists between the Kingdom of Italy on the one side and the Ottoman Empire on the other side; and

Whereas the United States are on terms of friendship and amity with both the contending powers and with the people inhabiting their several dominions; and

Whereas in the state of war thus unhappily existing the United States, looking to both parties for the appropriate reciprocal treatment toward the United States and toward all persons owing allegiance to them, are resolved to maintain and enforce in accordance with the rules and principles governing the rights and duties of neutrals in international warfare a strict and impartial neutrality between the aforesaid contending powers, as well as between themselves and the subjects of each, whether resident within the jurisdiction of the United States or elsewhere,

Now, therefore, I, William Howard Taft, President of the United States, do, in order that strict and impartial neutrality may be observed in the premises, enjoin all persons owing allegiance to the United States, as well as all other persons within the jurisdiction of the United States, to obey in letter and spirit the laws, rules, and principles governing the conduct of neutrals in time of international conflict as such laws, rules, and principles are prescribed by the statutes of the United States, by the treaties and international conventions which have been signed, ratified, and proclaimed by the Government of the United States and by the recognized customs of nations;

And I do hereby give notice and warning that all persons within the jurisdiction of the United States who may misconduct themselves in the premises will do so at their peril and will be subject to the strict and impartial enforcement of the penalties imposed by the laws, rules, and principles involved; and that all persons owing allegiance to the United States and so misconducting themselves outside the jurisdiction of the United States can in nowise obtain any protection from the Government of the United States against the appropriate legal consequences of their misconduct.

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 twenty-fourth day of October, in the year of our Lord one thousand nine hundred and eleven, and of the [SEAL.] independence of the United States of America the one hundred and thirty-sixth.

WM. H. TAFT.

By the President:
P. C. KNOX,
Secretary of State.

MEDICAL INSPECTION OF ITALIAN IMMIGRANTS.

File No. 150.655/2.

The Assistant Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT,
Washington, February 8, 1911.

SIR: By direction of the Secretary I have the honor to state that the Bureau of Public Health and Marine Hospital Service is in receipt of a letter dated February 1, 1911, from the State quarantine

officer of the port of New York, in which the suggestion is made that arrangements be effected for the medical representatives of the Italian Government who travel back and forth on vessels carrying immigrants between the Italian and United States ports to furnish to the quarantine officers of the port of arrival a report concerning the health of the immigrants during the trip and all details of any sickness that may have occurred. It is intended that this report should be made in addition to and independent of the report which is regularly made by the ship's surgeon.

It is understood that the medical representatives of the Italian Government above referred to are surgeons detailed from the Italian Navy for the specific purpose of keeping close observation on emigrants from Italy. Therefore the Department has to request your good offices in arranging for these medical officials of the Italian Government to render reports concerning the health of and all details of any sickness occurring in Italian immigrants during the voyage, to the quarantine officer at New York, and also to the quarantine officers at Boston, Philadelphia, and New Orleans.

Respectfully,

C. D. HILLES.

The Secretary of State to the American Ambassador.

DEPARTMENT OF STATE,
No. 167.] *Washington, February 28, 1911.*

SIR: I inclose a copy of a letter from the Treasury Department in which a suggestion is made, etc. [repeating the substance of the foregoing letter].

The Department will be gratified if you will take up the matter with the Italian Government and report its views regarding it.

I am, etc.,

P. C. KNOX.

File No. 150.655/5.

The American Chargé d'Affaires to the Secretary of State.

AMERICAN EMBASSY,
No. 426.] *Rome, July 26, 1911.*

SIR: Referring to the Department's instruction No. 167, etc., I have the honor to inclose herewith the reply of the Italian foreign office, accompanied by translation thereof, to the above-mentioned proposition.

It will be noted that the minister for foreign affairs refers to a previous note on the subject, dated April 11, 1911; as however this note has never been received by the embassy, I have to-day asked to be furnished with a copy, which will be forwarded to the Department as soon as received.

I have, etc.,

CHARLES S. WILSON.

[Inclosure.]

The Italian Minister for Foreign Affairs to the American Ambassador.

[Translation.]

MINISTRY OF FOREIGN AFFAIRS,
Rome, July 25, 1911.

Mr. AMBASSADOR: I have the honor to acknowledge receipt of the note No. 311 of June 24, 1911, in which your excellency requests a reply to the notes No. 237 of January 25, 1911, and No. 256 of March 13, 1911. To this latter I have already had the honor to reply in my note dated April 11 of this year, in which I stated that I willingly complied with the request made to me by the Federal Government through the medium of your excellency, and that to the doctors sailing as royal commissioners on ships for the emigration service instructions would be given to the effect that they should report directly to the quarantine bureaus of New York, Boston, Philadelphia, and New Orleans whether during the journey any cases of contagious diseases had occurred on board.

If, however, the Government of the United States should deem it necessary that in regard to this matter an actual arrangement should be made with the Royal Government, I will willingly discuss with your excellency the necessary arrangements.

I avail, etc.,

A. DI SAN GIULIANO.

File No. 150.655/6.

[The note of Apr. 11, 1911, referred to in despatch 426; transmitted to the Secretary Aug. 8.]

MINISTRY OF FOREIGN AFFAIRS,
Rome, April 11, 1911.

I have attentively examined the proposal which the American Embassy has made me in the name of the Federal Government, that the military doctors embarked as royal commissioners on board ships in the emigration service sailing from Italian ports receive instructions to declare directly to the quarantine officers of New York, Boston, Philadelphia, and New Orleans whether or not during the voyage there have been any cases of contagious diseases on board.

I very willingly accede to this request, and I take steps in the meantime that instructions be given to that effect to the royal traveling commissioners, whose functions depend especially upon article 11 of the law of July 17, 1910, No. 538, and articles 157 et seq. of the regulations approved by royal decree of July 10, 1901, No. 375. Of the law and regulation mentioned above I beg leave to inclose herewith two copies.

I hope that this provision, collaborated in by the Federal authorities and those of the Italian Government, may give useful results in the relations between the two countries to prevent in every possible way the spread of contagion.

DI S. GIULIANO.

The Acting Secretary of State to the Secretary of the Treasury.

September 8, 1911.

SIR: Referring to your letter of February 8 last and subsequent correspondence, I have the honor to inclose a copy of a dispatch from the American ambassador at Rome, in which he forwards a copy of a note from the Italian foreign office indicating that that Government is perfectly willing to have the military doctors employed on board ships in the emigration service sailing from Italian ports declare directly to the quarantine officers at New York, Boston, Philadelphia, and New Orleans whether or not there have been any cases of contagious diseases on board those vessels during the voyage.

I have, etc.,

HUNTINGTON WILSON.

INTERNATIONAL EXPOSITIONS AT ROME AND TURIN IN COMMEMORATION OF THE FIFTIETH ANNIVERSARY OF THE PROCLAMATION OF KINGDOM OF ITALY.

File No. 11675.

The Italian Ambassador to the Secretary of State.

[Translation.]

No. 403.] ROYAL EMBASSY OF ITALY,
Washington, February 7, 1908.

Mr. SECRETARY OF STATE: Rome and Turin, with the cooperation of all the Italian Provinces, are making preparations for a solemn celebration of the fiftieth anniversary of the proclamation of the Kingdom of Italy.

As a part thereof the two cities have announced an international exposition, which will be held in 1911 under the auspices of His Majesty the King, at Rome in its artistic and historico-archeological part, and at Turin in the part that includes the products of industry and labor in their various manifestations.

In bringing this information to your excellency's knowledge, by order of my Government I am further instructed to enlist the participation of the United States in the international competition of industry and labor at Turin, and of art and history at Rome.

His excellency the minister for foreign affairs lastly suggests that it would undoubtedly be expedient, in order to facilitate the participation, if it be decided to take part, that steps be taken here to appoint a commissioner general who might, at the proper time, communicate directly with the exposition's committees on organization.

Accept, Mr. Secretary of State, the assurances of my highest consideration.

MAYOR.

File No. 11675.

The Secretary of State to the Italian Ambassador.

No. 592.] DEPARTMENT OF STATE,
Washington, February 19, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 7th instant, inviting the Government of the United States to be represented at the international exposition of industry and labor which is to be held at Turin in 1911, and at the international exposition of art and history which is to be held at Rome in the same year.

Highly appreciating this courteous action on the part of your Government, I have the honor to say that due publicity will be given to the expositions mentioned, in order that ample time may be afforded to Americans who may desire to send exhibits to Turin and Rome.

The question of official participation by the Government of the United States in the expositions will be given consideration by the Department at the beginning of the next session of Congress.

Accept, excellency, the renewed assurance of my highest consideration.

ELIHU ROOT.

File No. 11675.

The Acting Secretary of State to the Secretary of Commerce and Labor.

WASHINGTON, *February 26, 1908.*

SIR: I have the honor to inclose herewith translation of a note received from the Italian ambassador in this city under date of the 7th instant, relative to the international expositions to be held at Rome and Turin in the year 1911 in commemoration of the fiftieth anniversary of the proclamation of the Kingdom of Italy.

I have the honor to request that appropriate mention be made of the proposed expositions in the Daily Consular Reports.

I have, etc.,

ROBERT BACON.

[S. Doc. No. 321, 61st Cong., 2d sess.]

The President to Congress.

[Message.]

To the Senate and House of Representatives:

I transmit herewith a report[1] by the Secretary of State setting out reasons why the invitation extended by the Government of Italy to that of the United States to participate in two international expositions which, in commemoration of the fiftieth anniversary of the Kingdom of Italy, will be held at Rome and Turin, respectively, in 1911, should be accepted and provision made by Congress to enable the United States fittingly to take part in the expositions.

Deeming international expositions of the comprehensive character of those it is intended to hold in Italy next year to be instructive agencies of the industrial development of the world and important instrumentalities in the advancement of trade relations, I give my cordial approval to the recommendation made by the Secretary of State and urge upon Congress timely provision in accordance therewith.

WM. H. TAFT.

THE WHITE HOUSE, *January 25, 1910.*

File No. 11675/59a.

The Secretary of State to the Italian Ambassador.

WASHINGTON, *January 29, 1910.*

MY DEAR MR. AMBASSADOR: I beg to inclose for your information and use three copies of Senate Document No. 321, Sixty-first Congress, second session, containing the request made to Congress for provision that will enable this Government to participate in the two international expositions to be held at Rome and Turin next year.

I am, etc.,

P. C. KNOX.

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[1] Not printed.

File No. 11675/91a.

The Acting Secretary of State to the American Ambassador.

[Telegram.]

WASHINGTON, *April 30, 1910.*

Diplomatic and consular act as finally passed by both Houses on 28th instant appropriates $130,000 for this Government's participation in Rome and Turin expositions.

WILSON.

(For reports of the American commissioners to the expositions, see 865.607a/353,364,387, on file in the Department of State. A commercial report on the exposition at Turin—Daily Consular and Trade Reports, No. 32673, for October 31, 1911—is on file in the Bureau of Foreign and Domestic Commerce, Department of Commerce.)

JAPAN.

TREATY OF COMMERCE AND NAVIGATION—PROTOCOL OF A PROVISIONAL TARIFF ARRANGEMENT BETWEEN THE UNITED STATES AND JAPAN.

Signed at Washington, February 21, 1911.
Ratification advised by the Senate, with amendment, February 24, 1911.
Ratified by the President, March 2, 1911.
Ratified by Japan, March 31, 1911.
Ratifications exchanged at Tokyo, April 4, 1911.
Proclaimed April 5, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty of commerce and navigation between the United States of America and the Empire of Japan was concluded and signed by their respective plenipotentiaries at Washington on the twenty-first day of February, one thousand nine hundred and eleven, the original of which treaty, being in the English language, is, as amended by the Senate of the United States, word for word as follows:

The President of the United States of America and his Majesty the Emperor of Japan, being desirous to strengthen the relations of amity and good understanding which happily exist between the two nations, and believing that the fixation in a manner clear and positive of the rules which are hereafter to govern the commercial intercourse between their respective countries will contribute to the realization of this most desirable result, have resolved to conclude a treaty of commerce and navigation for that purpose, and to that end have named their plenipotentiaries, that is to say:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States; and

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, His Majesty's ambassador extraordinary and plenipotentiary to the United States of America;

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

ARTICLE I.

The citizens or subjects of each of the high contracting parties shall have liberty to enter, travel, and reside in the territories of the other to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses, and shops, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects, submitting themselves to the laws and regulations there established.

They shall not be compelled, under any pretext whatever, to pay any charges or taxes other or higher than those that are or may be paid by native citizens or subjects.

The citizens or subjects of each of the high contracting parties shall receive, in the territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or may be granted to native citizens or subjects, on their

submitting themselves to the conditions imposed upon the native citizens or subjects.

They shall, however, be exempt in the territories of the other from compulsory military service either on land or sea, in the regular forces, or in the national guard, or in the militia; from all contributions imposed in lieu of personal service, and from all forced loans or military exactions or contributions.

ARTICLE II.

The dwellings, warehouses, manufactories, and shops of the citizens or subjects of each of the high contracting parties in the territories of the other, and all premises appertaining thereto used for purposes of residence or commerce, shall be respected. It shall not be allowable to proceed to make a domiciliary visit to or a search of any such buildings and premises, or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws, ordinances, and regulations for nationals.

ARTICLE III.

Each of the high contracting parties may appoint consuls general, consuls, vice consuls, deputy consuls, and consular agents in all ports, cities, and places of the other, except in those where it may not be convenient to recognize such officers. This exception, however, shall not be made in regard to one of the contracting parties without being made likewise in regard to all other powers.

Such consuls general, consuls, vice consuls, deputy consuls, and consular agents, having received exequaturs or other sufficient authorizations from the Government of the country to which they are appointed, shall, on condition of reciprocity, have the right to exercise the functions and to enjoy the exemptions and immunities which are or may hereafter be granted to the consular officers of the same rank of the most-favored nation. The Government issuing exequaturs or other authorizations may in its discretion cancel the same on communicating the reasons for which it thought proper to do so.

ARTICLE IV.

There shall be between the territories of the two high contracting parties reciprocal freedom of commerce and navigation. The citizens or subjects of each of the contracting parties, equally with the citizens or subjects of the most favored nation, shall have liberty freely to come with their ships and cargoes to all places, ports, and rivers in the territories of the other which are or may be opened to foreign commerce, subject always to the laws of the country to which they thus come.

ARTICLE V.

The import duties on articles, the produce or manufacture of the territories of one of the high contracting parties, upon importation into the territories of the other, shall henceforth be regulated either by treaty between the two countries or by the internal legislation of each.

Neither contracting party shall impose any other or higher duties or charges on the exportation of any article to the territories of the other than are or may be payable on the exportation of the like article to any other foreign country.

Nor shall any prohibition be imposed by either country on the importation or exportation of any article from or to the territories of the other which shall not equally extend to the like article imported from or exported to any other country. The last provision is not, however, applicable to prohibitions or restrictions maintained or imposed as sanitary measures or for purposes of protecting animals and useful plants.

ARTICLE VI.

The citizens or subjects of each of the high contracting parties shall enjoy in the territories of the other exemption from all transit duties and a perfect equality of treatment with native citizens or subjects in all that relates to warehousing, bounties, facilities, and drawbacks.

ARTICLE VII.

Limited-liability and other companies and associations, commercial, industrial, and financial, already or hereafter to be organized in accordance with the laws of either high contracting party and domiciled in the territories of such party are authorized in the territories of the other to exercise their rights and appear in the courts either as plaintiffs or defendants, subject to the laws of such other party.

The foregoing stipulation has no bearing upon the question whether a company or association organized in one of the two countries will or will not be permitted to transact its business or industry in the other, this permission remaining always subject to the laws and regulations enacted or established in the respective countries or in any part thereof.

ARTICLE VIII.

All articles which are or may be legally imported into the ports of either high contracting part, from foreign countries in national vessels may likewise be imported into those ports in vessels of the other contracting party without being liable to any other or higher duties or charges, of whatever denomination, than if such articles were imported in national vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other foreign place.

In the same manner there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid and the same bounties and drawbacks allowed in the territories of each of the contracting parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in vessels of the United States or in Japanese vessels, and whatever may be the place of destination, whether a port of the other party or of any third power.

ARTICLE IX.

In all that regards the stationing, loading, and unloading of vessels in the ports of the territories of the high contracting parties, no privileges shall be granted by either party to national vessels which are not equally, in like cases, granted to the vessels of the other country, the intention of the contracting parties being that in these respects the respective vessels shall be treated on the footing of perfect equality.

ARTICLE X.

Merchant vessels navigating under the flag of the United States or that of Japan and carrying the papers required by their national laws to prove their nationality shall in Japan and in the United States be deemed to be vessels of the United States or of Japan, respectively.

ARTICLE XI.

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever denominations, levied in the name or for the profit of Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels in general, or on vessels of the most favored nation. Such equality of treatment shall apply reciprocally to the respective vessels from whatever place they may arrive and whatever may be their place of destination.

ARTICLE XII.

Vessels charged with performance of regular scheduled postal service of one of the high contracting parties, whether belonging to the State or subsidized by it for the purpose, shall enjoy, in the ports of the territories of the other, the same facilities, privileges and immunities as are granted to like vessels of the most favored nation.

ARTICLE XIII.

The coasting trade of the high contracting parties is excepted from the provisions of the present treaty and shall be regulated according to the laws of the United States and Japan, respectively. It is, however, understood that the citizens or subjects of either contracting party shall enjoy in this respect most-favored-nation treatment in the territories of the other.

A vessel of one of the contracting parties, laden in a foreign country with cargo destined for two or more ports of entry in the territories of the other, may discharge a portion of her cargo at one of the said ports, and, continuing her voyage to the other port or ports of destination, there discharge the remainder of her cargo, subject always to the laws, tariffs, and customs regulations of the country of destination; and, in like manner and under the same reservation, the vessels of one of the contracting parties shall be permitted to load at several ports of the other for the same outward voyages.

ARTICLE XIV.

Except as otherwise expressly provided in this treaty, the high contracting parties agree that, in all that concerns commerce and navigation, any privilege, favor, or immunity which either contracting party has actually granted, or may hereafter grant, to the citizens or subjects of any other State shall be extended to the citizens or subjects of the other contracting party gratuitously, if the concession in favor of that other State shall have been gratuitous, and on the same or equivalent conditions if the concession shall have been conditional.

ARTICLE XV.

The citizens or subjects of each of the high contracting parties shall enjoy in the territories of the other the same protection as native citizens or subjects in regard to patents, trade-marks, and designs, upon fulfillment of the formalities prescribed by law.

ARTICLE XVI.

The present treaty shall, from the date on which it enters into operation, supersede the treaty of commerce and navigation dated the 22d day of November, 1894; and from the same date the last-named treaty shall cease to be binding.

ARTICLE XVII.

The present treaty shall enter into operation on the 17th of July, 1911, and shall remain in force twelve years or until the expiration of six months from the date on which either of the contracting parties shall have given notice to the other of its intention to terminate the treaty.

In case neither of the contracting parties shall have given notice to the other six months before the expiration of the said period of twelve years of its intention to terminate the treaty, it shall continue operative until the expiration of six months from the date on which either party shall have given such notice.

ARTICLE XVIII.

The present treaty shall be ratified and the ratifications thereof shall be exchanged at Tokyo as soon as possible and not later than three months from the present date.

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

Done at Washington the 21st day of February, in the nineteen hundred and eleventh year of the Christian era, corresponding to the 21st day of the 2d month of the 44th year of Meiji.

PHILANDER C. KNOX. [SEAL.]
Y. UCHIDA. [SEAL.]

And whereas the advice and consent of the Senate of the United States to the ratification of the said treaty was given with the understanding "that the treaty shall not be deemed to repeal or affect any of the provisions of the act of Congress entitled 'An act to

regulate the immigration of aliens into the United States,' approved February 20, 1907";

And whereas the said understanding has been accepted by the Government of Japan;

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 Tokyo, on the fourth day of April, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said treaty, as amended, and the said understanding 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 testimony 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 fifth day of April, in the year of our Lord one thousand nine hundred and eleven, and of the independence of the United States of America the one hundred and thirty-fifth.

[SEAL.] WM. H. TAFT.

By the President:

P. C. KNOX,
Secretary of State.

DECLARATION.

In proceeding this day to the signature of the treaty of commerce and navigation between Japan and the United States the undersigned, Japanese ambassador in Washington, duly authorized by his Government, has the honor to declare that the Imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of laborers to the United States.

Y. UCHIDA.

FEBRUARY 21, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a protocol of a provisional tariff arrangement between the United States of America and the Empire of Japan was concluded and signed by their respective plenipotentiaries at Washington on the twenty-first day of February, one thousand nine hundred and eleven, the original of which protocol, being in the English language is, as amended by the Senate of the United States, word for word as follows:

PROTOCOL.

The Government of the United States of America and the Government of Japan have, through their respective plenipotentiaries, agreed upon the following stipulation in regard to Article V of the treaty of commerce and navigation between the United States and Japan signed this day to replace on the 17th of July, 1911, the treaty of the 22d of November, 1894:

Pending the conclusion of a treaty relating to tariff, the provisions relating to tariff in the treaty of the 22d of November, 1894, shall be maintained.

In witness whereof the respective plenipotentiaries have signed this protocol in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of February, in the nineteen hundred and eleventh year of the Christian era, corresponding to the 21st day of the 2d month of the 44th year of Meiji.

[SEAL.] PHILANDER C. KNOX.
[SEAL.] Y. UCHIDA.

And whereas the said protocol, 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 Tokyo on the fourth day of April, one thousand nine hundred and eleven:

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said protocol 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 to be affixed.

Done at the city of Washington this fifth day of April, in the year of our Lord one thousand nine hundred and eleven, and of the independence of the United States of America the one hundred and thirty-fifth.

[SEAL.] WM. H. TAFT.

By the President:

P. C. KNOX,
Secretary of State.

EXTRATERRITORIAL JURISDICTION IN CHOSEN.—VALIDITY OF CONSULAR RECORDS.—CONTROL OF FUNDS AND PROPERTY OF FOREIGN SETTLEMENTS.—CONSULAR JURISDICTION OVER AMERICANS UNDER ARREST OR CONDEMNED TO IMPRISONMENT; CHANGES IN THE PLACE OF THEIR DETENTION AND IN THE TRIAL COURT.

File 895.00/486.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, *September 18, 1910.*

While recognizing the value of the reforms in Korea made by Japan, the Department nevertheless desires more specific information regarding them.

First, as to the nature of the judicial system now in operation in Korea, and under what codes of law American defendants will be tried in case consular jurisdiction be discontinued.

Second, as to whether or not the application of Japanese codes is implied in rule 1 of the declaration accompanying the new treaty, and, if so, what material modifications are contemplated by the reservation "so far as conditions permit."

Third, as to the condition of Korean prisons, and what Japan purposes doing with Americans under arrest or condemned to imprisonment in localities not having sanitary prisons.

Fourth, as to what disposition will be made of existing foreign settlements and real property held by foreigners under the law promulgated by the Korean Government October 31, 1906.

Fifth, as to what Japan further purposes doing to secure adequate protection of foreign interests.

The Department assumes that no change is contemplated in the policy of encouraging American mission schools and other commendable activities in Korea, but the missionary societies would doubtless be glad of assurance to that effect.

It is clearly desirable that consular jurisdiction be continued until the old Korean system shall have been completely replaced, under Japanese supervision, by actually operating laws and courts in substantial conformity to those of Japan itself; or that the trial of American citizens under Japanese laws be limited to such tribunals as the supreme court, the court of appeals, and the eight local courts, which the Japanese Government will presumably engage to maintain at a high standard of efficiency.

WILSON.

File No. 895.00/513.

The American Ambassador to the Secretary of State.

[Extract.]

No. 1235.] AMERICAN EMBASSY,
Tokyo, October 4, 1910.

SIR: With reference to your telegram of September 18, received on the following day, I have the honor to advise that on the 20th ultimo, by my No. 491, I sent a communication to the minister for foreign affairs relating to certain phases of the annexation of Korea. This communication adhered quite closely to your instruction, and perhaps a knowledge of the real wording will be best understood from an exact copy, and this I have the honor to inclose. You will notice that the concluding clause is a suggestion not appearing in your instruction, but which seemed to me to be highly desirable. In case the Japanese Government will accede to this, I should advise the trial of all American citizens at Seoul, no matter where the alleged offense may have been committed. No reply has yet been received, but I was assured by the vice minister on the 24th ultimo that the subject was under consideration.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

The American Ambassador to the Minister for Foreign Affairs.

No. 491.] AMERICAN EMBASSY,
Tokyo, September 20, 1910.

EXCELLENCY: I beg to advise you that I have received a communication from my Government touching one phase of the treaty of annexation between the

Government of Japan and the Government of Korea, signed on August 22 last, and of the declaration bearing the same date. The Department of State, while recognizing with pleasure the great value of the many reforms already put into effect by Japan in Korea, can not be unmindful of the fact that citizens of the United States have and in the future will have many varied commercial and other interests in that country, and that, therefore, any proposed action which affects their rights and liberties must be considered as important.

Since the present local conditions in Korea are not known to my Government, I feel free to direct your excellency's attention to certain lines of inquiry:

First. Kindly advise me to what extent a modern judiciary system has been put into actual operation throughout the country and under what procedure or codes of law American citizens will be tried or their property interests be determined in the event that the present system of consular jurisdiction should be suspended.

Second. In the first clause of the declaration above referred to it is stated that foreigners resident in Korea will enjoy the same rights and immunities as in Japan proper "so far as conditions permit." In case the codes of law of Japan shall be applied in the territory of Korea, as seems likely, may I not inquire what material modifications may be contemplated by the words above quoted.

Third. The department is quite without information as to the condition of Korea prisons and is anxious to know what early provision the Japanese Government will make for confinement of American citizens in a suitable and modern prison or place of detention in the case of any such who may be under arrest or who have been condemned to undergo sentence of imprisonment.

Fourth. My Government will also be glad to be advised concerning the existing foreign settlements and the real property now held by foreign subjects under the law promulgated October 31, 1906.

Fifth. In case any other measures of general importance are contemplated by the Japanese Government to insure adequate protection for foreign interests in Korea, I shall learn of them with great interest.

Both your excellency and I are well aware that a number of missionary societies maintain representatives in Korea, and it is believed that their activities in the past have resulted in genuine good to the people. Bearing in mind the tolerance and even encouragement extended to these missionaries under the residency general, I hope I am safe in assuming that in the future like encouragment for the advancement of Christian educational and other commendable enterprises will be the policy of your Government.

The Department of State is of the opinion that it is desirable that consular jurisdiction be continued for the present and until such time as the former Korean judicial system is completely replaced under Japanese rule by laws and courts which are in actual operation, substantially conforming to those which now exist in Japan proper. It is expected in any event that the trial of American citizens under Japanese laws shall take place only in such courts as the Imperial Government will agree to maintain at a high standard of efficiency. I have in mind such courts only as shall be established in large centers of population, thus affording to a person under arrest the opportunity to employ counsel and to have consular advice and assistance.

Accept, excellency, etc.,

T. J. O'BRIEN.

File No. 895.00/517.

The American Ambassador to the Secretary of State.

[Extract.]

AMERICAN EMBASSY,
Tokyo, October 14, 1910.

No. 1239.]

SIR: The answer of the minister for foreign affairs to my note (No. 491) to him of the 20th ultimo, was received on the 6th instant, and I beg to transmit a copy herewith. This reply is not sufficiently definite in its promises, especially as regards the seventh clause of my note. Without waiting for further instructions and considering that the desire of the Department is already understood, I

have ventured as of this date to write a further note (No. 502) to the minister for foreign affairs, a copy of which will be found herewith. * * *

I have, etc.,

T. J. O'BRIEN.

[Inclosure 1.]

The Minister for Foreign Affairs to the American Ambassador.

FOREIGN OFFICE,
No. 12.] *Tokyo, October 6, 1910.*

Mr. AMBASSADOR: I have the honor to acknowledge receipt of your excellency's confidential note of the 20th ultimo, requesting information on certain questions growing out of the annexation of Korea to the Empire of Japan. Fully appreciating the friendly and sympathetic motives which prompted those inquiries, I have much pleasure in furnishing you the desired information.

1. The modern judiciary system of Japan has been put into actual operation in Korea to the extent that in all cases in which foreigners are interested as plaintiffs, defendants, or accused, the organization of the competent courts and the qualifications of the sitting judges are essentially the same as in Japan proper. For the determination of such cases the civil, criminal, and commercial laws in operation in Japan proper are, with the exception of the provisions relating to immovable property, applied practically without qualification or material modification. So far as immovable property is concerned the rules and usages hitherto in operation in Korea are for the time being maintained. As regards judicial procedure the practice obtaining in Japan proper is as a rule correspondingly extended to Korea, subject to some exceptions of minor importance necessitated by local requirements. The foregoing system and procedure are, it should be added, the same as those applied in Korea in cases in which Japanese are parties in interest.

2. In making in the declaration to which your excellency refers the reservation "so far as conditions permit," the Imperial Government had no specific rights and immunities in mind. The reservation was made out of abundant caution to meet circumstances which could not be wholly foreseen. There are some rights and immunities enjoyed by foreigners in Japan proper which in the nature of things it is impossible for the present at least to extend to foreigners resident in Korea. The case of immovable property is an instance in point. It being impracticable at the present time to apply in Korea the Japanese laws relating to immovable property, the rights enjoyed by foreigners in Japan proper in the matter of registration of real rights can not be extended to foreigners resident in Korea. The reply given to your excellency's first inquiry is an answer as well to the question in the last sentence under this head.

3. As to the condition of Korean prisons: In cities and towns in which are established local courts (Chiho-saibansho), 8 in number, and their branch offices (Chiho-saibansho-shibu), 12 in number, prisons are now generally provided with sanitary and other necessary accommodations. The condition of prisons in Korea has engaged the serious attention of the Imperial Government ever since they undertook the administration of justice and prisons in that country by virtue of the memorandum of July 12, 1909, and new buildings fitted with modern improvements have already, in some places, been completed, while similar improvements of all prisons throughout Korea are in contemplation. If prisons in which convicts are to be detained are not in a satisfactory condition, the convicts may be removed to other suitable prisons by order of the competent authorities. In case of accused persons awaiting trial, changes in the places of their detention may be affected by transferring jurisdiction in the cases from one court to another. For that purpose a special ordinance is shortly to be promulgated. It is therefore open to the competent authorities, according to requirements in individual cases, to remove convicted and accused persons from unsuitable prisons or places of detention to those which are suitably equipped and maintained.

4. With regard to the general foreign settlements in Korea, the Imperial Government have decided to maintain for the present the status quo in such settle-

ments in all matters of local administration, excepting those relating to police, and a decree to that effect was promulgated on August 29 last. In matters respecting police the Imperial Government have been obliged in the interest of peace, public security, and good order to assume entire control and direction. It will no doubt be necessary hereafter to incorporate those settlements with the general municipal system in operation in Korea. Before that step is taken however the Imperial Government will consult the powers concerned regarding the final disposition of the common funds and property belonging to such settlements. The Imperial Government are fully prepared, conformably to the first clause of the declaration above mentioned, to respect the rights in real property duly acquired by foreigners and attested under the regulations of October 31, 1906, relating to attestations for land and buildings.

5. Concerning other general measures designed to insure adequate protection for foreign interests in Korea, nothing of a definite character is at present under consideration. I need hardly assure your excellency, however, that it will be the constant and sincere aim of the Imperial Government to afford to all legitimate interests, foreign as well as national, in all parts of the Empire, full protection and security.

6. The Imperial Government, recognizing the complete freedom of faith, have no intention to depart in Korea from their established policy of extending due protection and encouragement to all religious missions engaged in educational and other commendable enterprises not prejudicial to the Government and administration.

7. It will be observed from the foregoing explanation that so far at least as foreigners are concerned, the administration of justice in Korea is assured under laws and by courts in actual operation, substantially conforming to those which now exist in Japan proper. Having regard to this situation, and considering also that the system of consular jurisdiction is wholly unsuited to the new condition of things in Korea, and believing that the continuation of that system would in the actual circumstances be contrary to well-established practice, the Imperial Government are fully satisfied that the revival of consular jurisdiction in Korea is both unnecessary and inadvisable. As regards the courts for the trial of American citizens and other foreigners, it would be impracticable to limit jurisdiction in such cases, by general provisions of law, to a few special courts. It has, however, already been explained that in dealing with cases in which foreigners are parties the organization of the courts and the qualifications of the judges are virtually equal to those of Japan proper, and that it is open to the competent authorities to remove convicted or accused persons from one prison or place of detention to another as the actual circumstances may require. It is consequently believed that no case will arise in which those persons will be subjected to undue hardship and privation. It may be added that in matters connected with the administration of justice in Korea American citizens naturally enjoy the benefits of the judicial guarantee contained in the existing treaty between our two countries.

In conclusion, I permit myself to indulge the hope that your excellency's Government will find in this note a satisfactory and convincing explanation of the questions raised, assuring the due protection of the interests of American citizens of Korea.

I avail, etc.,

COUNT KOMURA.

[Inclosure 2.]

The American Ambassador to the Minister for Foreign Affairs.

No. 502.] AMERICAN EMBASSY,
Tokyo, October 14, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant on the subject of the procedure, civil and criminal, in Korea. Your frank reply to my inquiries has been read with sincere interest, and I have no doubt will meet with due appreciation at the hands of my Government.

Passing by, however, the early contents of your note, I desire to bring your attention to the seventh and last clause. You point out that "it would be impracticable to limit jurisdiction in such cases, by general provisions of law, to a few special courts." It was not my purpose to suggest an interference with the general features of the Japanese code which is to be applied in Korea—certainly your excellency's Government can make any regulation as regards natives

and Japanese that may be considered best. It was my desire simply to provide suitable protection to American citizens who might have legal interests in Korean territory. Your assurance that the local authorities will have power to remove convicted or accused persons from place to place, as circumstances may require, is not sufficiently reassuring. It is a matter of common observation that an appeal in such cases to the prosecutor or even to the court is likely to be met by refusal, and my purpose was to have suitable provision under which persons having business in the courts, civil or criminal, would have the affirmative right to demand a transfer of the procedure, preferably to Seoul. There are many jurisdictions where provision is made for a transfer under such conditions as you point out, but there are many others where the defendant may demand the removal by merely asking for the order, and the demand is not one subject to judicial consideration or denial. It is this right which, in my judgment, should be granted. I need not suggest a method, because that will readily occur to your excellency.

It is sufficient to add that the privilege is of so high and important a character as to justify a convention, if no more simple legal method can be arrived at. I beg that your excellency will appreciate the importance which I attach to this feature of the matter and find a way to meet the wishes of my Government.

I avail, etc.,

T. J. O'BRIEN.

File No. 895.00/512.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

TOKYO, *October 24, 1910.*

Since sending the report on the abolition of extraterritoriality, developments concerning land ownership and other questions gravely affect our interests. The unsatisfactory reply of the minister for foreign affairs to the ambassador's request for further information, based on your telegraphic instructions of September 18, says, among other things:

The rights enjoyed by foreigners in Japan proper, in the matter of registration of real rights, can not be extended to foreigners resident in Korea, it being impracticable at the present time to apply in Korea the Japanese laws relating to immovable property.

SCHUYLER.

File No. 895.00/529.

[Extract.]

No. 1262.] AMERICAN EMBASSY,
Tokyo, November 17, 1910.

SIR: Referring to your telegram of September 18 and to the ambassador's despatch No. 1239, of October 14, and especially to my telegram of the 24th of October, I now have the honor again to point out the importance of closely watching any future changes or proposed changes in the ownership of land by foreigners in Korea.

One of the most disappointing and inadequate portions of the reply of the minister for foreign affairs made to Mr. O'Brien's request for information (a copy of which was enclosed with the embassy's No. 1239) was that touching land ownership. In the first place, there would seem to be an absolute contradiction between the statement of paragraph 1—"So far as immovable property is concerned, the rules and usages hitherto in operation in Korea are for the time being

maintained"—and the further declaration in paragraph 2, where it is said that—

> There are some rights and immunities enjoyed by foreigners in Japan proper which, in the nature of things, it is impossible, for the present at least, to extend to foreigners resident in Korea. The case of immovable property is an instance in point. It being impracticable at the present time to apply in Korea the Japanese laws relating to immovable property, the rights enjoyed by foreigners in Japan proper in the matter of the registration of real rights can not be extended to foreigners resident in Korea.

The rights "enjoyed" by foreigners in Japan proper are so much less liberal than those which they have hitherto had in Korea, that the latter statement of the minister certainly foreshadows extensive and irksome restrictions as to the right of Americans to own or to acquire land in Chosen. At the present time Americans hold a very considerable amount of land in various places throughout the peninsula, and this quantity would under normal conditions be rapidly increased by the ordinary healthy growth of various enterprises, especially those of a philanthropic and educational character under the control of American missionaries. I have been endeavoring, but without much success, to get statistics as to the exact amount of land owned by foreigners, especially Americans, in Korea. There is not much land held by Americans for business purposes, and mining concessions being in a class by themselves, subject to specific regulations, would probably be differently affected by any change in the present system of ownership.

At the present time, as the Department is aware, foreigners are not permitted as individuals to own land in Japan proper, although companies organized under Japanese law composed entirely of foreigners are allowed to do so. Land may be held by foreigners individually only in the following ways:

1. Perpetual leases in the old treaty ports.
2. Leases for 20 years, renewable for a like period.
3. *Superficies*, or leases for an unlimited number of years.

However, under the law passed by the Diet on March 24, 1910, which is to be enforced by imperial ordinance some time in 1911, foreigners, either as individuals or juridical persons, will be permitted with certain restrictions to own land in Japan proper, but not in Hokkaido, Formosa, and Saghalien. This right, however, is to be granted only on the reciprocal condition that Japanese subjects shall be given the right of land ownership in the country to which such foreigners belong. It has not yet been decided what countries shall enjoy this reciprocity, but the matter is now being studied, and the names of the favored countries will be announced in the imperial ordinance above referred to. Details of the regulations governing foreign land ownership in Japan will be found in this embassy's despatches No. 535 of December 15, 1908, and 1062 and 1104 of February 28 and March 25, 1910.

For convenience of reference I enclose copies of the law of October 31, 1906,[1] regarding land ownership in Korea, as furnished me by the consulate general at Seoul.

I have, etc.,

MONTGOMERY SCHUYLER.

[1] Not printed.

File No. 895.00/532.

The American Chargé d'Affaires to the Secretary of State.

No. 1266.] AMERICAN EMBASSY,
Tokyo, November 29, 1910.

SIR: I have the honor to inform you that, at the request of the acting minister for foreign affairs, I called at the foreign office this afternoon. Mr. Ishii handed me a note (No. 71), copies of which are inclosed herewith, replying to the ambassador's note of October 14 regarding change of venue in cases affecting Americans in Korea. Mr. Ishii said that he had asked me to come to see him so as to explain more fully why only criminal cases were mentioned in the decree issued by the governor general of Chosen. He pointed out that, as only criminal cases were mentioned in Mr. O'Brien's note, the ministry had considered it unnecessary to refer to other cases, more especially since in civil matters it was always possible for both parties at interest to come to an amicable agreement regarding change of venue. He further said that, as Mr. O'Brien had, in the note above referred to, only mentioned this one matter and had passed over without comment all the other points contained in Count Komura's confidential note No. 12 of October 6, he therefore took it for granted that the United States had fully approved of all the answers upon which the ambassador had not commented.

I said in reply that Mr. O'Brien had merely asked for information upon certain points under instructions from the Department, and that when the reply came he had neither approved it nor disapproved, but had referred the whole matter to the Department of State and had, at the same time, without having heard from the Department, taken up upon his own initiative one point which had seemed to him to require further elucidation.

It is obvious that the decree of the governor general as now promulgated leaves the whole question of change of venue to his discretion and does not make it mandatory upon the judicial authorities of Chosen, as was Mr. O'Brien's idea. Moreover, this matter of change of venue is, after all, a minor one compared with the general question of whether extraterritoriality in Korea shall or shall not be abolished in so far as regards Americans. I do not understand that the ambassador in sending his note of October 14, to which the inclosed communication is a reply, meant to infer that, should the Japanese Government give a satisfactory answer, the whole question of consular jurisdiction might be regarded as ended.

In all my conversations with Mr. Ishii and others since the treaty of annexation was published, I have consistently made the point that American consular jurisdiction was not abolished and could not be so until some definite action to that end had been taken by the Government of the United States.

I have, etc.,

MONTGOMERY SCHUYLER.

[Inclosure.]

The Minister for Foreign Affairs to the American Chargé d'Affaires.

No. 71.] FOREIGN OFFICE,
Tokyo, November 29, 1910.

MONSIEUR LE CHARGÉ D'AFFAIRES: The note which his excellency the American ambassador did me the honor of addressing to me under date of the 14th

ultimo on the subject of judicial procedure in Korea was duly received and has had careful consideration.

I am happy to be able to inform you in reply that a decree was yesterday issued by the governor general of Chosen containing the following provision, and has, from that date, been put into operation:

> The governor general of Chosen, whenever he deems it specially necessary, may order that criminal cases coming within the competence of one district or local court shall be dealt with by another court of the same grade.

As this new rule is intended to cover, among others, precisely the class of cases to which Mr. O'Brien made reference and will be free from the objectionable features to which he called attention, the Imperial Government are confident that the measure, in actual operation, will entirely meet the wishes of your Government.

I avail, etc.,

COUNT KOMURA.

File No. 895.52.

The American Chargé d'Affaires to the Secretary of State.

No. 1274.] AMERICAN EMBASSY,
Tokyo, December 13, 1910.

SIR: I have the honor to transmit a copy of a despatch which I have this moment (6 p. m.) received from the American consul general at Seoul. As the pouch must be closed this evening it is impossible to comment upon or even to furnish duplicate copies of this letter. It will be seen, however, that the matter is urgent, and without awaiting instructions from the Department I shall take this question up with the foreign office to-morrow, in an endeavor to obtain some modifications of this proposed procedure.

I have, etc.,

MONTGOMERY SCHUYLER.

[Inclosure.]

The American Consul General at Seoul to the American Chargé d'Affaires.

No. 1754e.] AMERICAN CONSULATE GENERAL,
Seoul, Chosen, Korea, December 9, 1910.

SIR: I have the honor to inclose herewith a copy of a letter dated the 5th instant from Mr. Ariyoshi, chief of the general affairs department of the Government General of Chosen, together with translations of law No. 7, promulgated August 24, 1910, and regulations relating to investigations of lands in this country. On the 6th instant I acknowledged receipt of Mr. Ariyoshi's letter and inclosures without comment. Since then I have had several conferences with Mr. Bonar, the British consul general here, and his opinions in the matter are the same as my own. He is forwarding to the British embassy at Tokyo and to the British foreign office despatches covering the following points:

1. It will be noted that the law was promulgated previous to the annexation of Korea by Japan, and had it been brought to my notice with proper accompanying request from the then residency general, I might have been justified in notifying American citizens to comply with its provisions, as was done in the case of the house tax law.

2. In the case of the house tax law it will be remembered that I obtained from the residency general certain stipulations restricting the imposition of penalties and providing that the court of this consulate general should be the proper forum in connection therewith. The Japanese Government having at the time of the annexation of Korea announced that consular jurisdiction had ceased, it is evident that similar concessions are not likely to be accorded in the present case.

3. This law and accompanying regulations wholly ignore the existence of land records in the various foreign consulates. Such records in this office have

been made with great care and are in consonance with the Korean land law and regulations of 1906. When an American citizen has purchased land here, in almost every instance his title deed has been certified by local magistrate and by the nearest Japanese resident, after which the deed, with copies of surveys, has been recorded in this office. This has, of course, involved much time, trouble, and the payment of considerable fees to the magistrate, to the Japanese resident, and to this office. It does not seem reasonable that the authenticity of these records should be questioned unceremoniously and on short notice.

4. The very limited time in some districts within which applications for investigation must be filed will undoubtedly work hardship and cause discontent. The American missionaries here have purchased hundreds of pieces of land in various parts of the country, and to require them, with so little delay, personally to attend to all the details required seems to be somewhat exacting. In this connection I beg to call special attention to the stringent, if not arbitrary, provisions of Articles V, VI, VII, VIII, XI, XII, and XIII.

In consequence of the absence from Chosen of the governor general, Viscount Terauchi, I have refrained from discussing these points with his subordinates, knowing full well that they would be held up for decision until his return. He is now in Tokyo and is expected here on about the 24th instant. Meanwhile may I respectfully suggest that you take up the matter with him or through the foreign office. I shall be very glad if you will, upon receipt of this, telegraph to me some instructions, for I expect to be shortly overwhelmed with inquiries from missionaries and other American landowners in Chosen.

I have, etc.,

GEO. H. SCIDMORE.

[Subinclosure.]

The Government General of Chosen to the American Consul General at Seoul.

GOVERNMENT GENERAL OF CHOSEN,
No. 13.] *Keijo, December 5, 1910.*

SIR: For the guidance of people in submitting information relating to lands according to the land investigation law and the regulations for the enforcement of the same, which as you may be aware were promulgated on the 24th of August, the authorities concerned have lately issued the rules concerning the presentation of the information as above mentioned. It may be observed that one of the purposes of the law is to establish a more perfect system of landed rights and applicable to the lands excepting those within the former foreign settlements.

I have the honor to forward to you herewith inclosed a copy of each of the above-mentioned law and regulations, in the hope that the same may be brought to the attention of such of your nationals as they may concern.

I have, etc.,

C. ARIYOSHI.

[Inclosure with the next above.]

Law No. 7, relating to investigation of lands; promulgated August 24, 1910.

ARTICLE V. Landowners shall submit information to the Government concerning their lands within the period appointed by the Government.

ARTICLE VI. In case it is recognized as necessary when investigation of lands is carried out, the Government may require the presence on the spot of landowners or their agents.

ARTICLE VII. With regard to landowners as well as the areas and boundary lines of lands, the president of the land investigation bureau shall investigate and decide these after inquiries have been made of the local committee for land investigation. The names of those landowners as well as areas and boundary lines of lands, decided in the preceding clause, shall be publicly announced.

ARTICLE VIII. Those objecting to decisions by the president of the land investigation bureau may lodge complaints with the higher committee for land investigation within 90 days from the date on which they have been publicly announced, and ask for their revision.

ARTICLE XI. Those abstaining from being present on the spot as mentioned in Article VI, without proper reasons, shall be denied the right of objecting to decisions by the president of the land investigation bureau.

ARTICLE XII. Those failing to give information as mentioned in Article V, or abstaining from being on the spot as mentioned in Article VI, without proper reasons, shall be fined not more than 20 yen.

ARTICLE XIII. Those giving false information shall be fined not more than 100 yen.

File No. 895.52/1.

The American Chargé d'Affaires to the Secretary of State.

No. 1279.] TOKYO, *December 27, 1910.*

SIR: Supplementing my No. 1274 of December 13, I have the honor to inclose copies of my note (No. 515) to the minister for foreign affairs regarding the new land investigation law of Korea. I have not yet received any reply, but am informed by the acting minister for foreign affairs that the matter has been referred to Seoul and that satisfactory amendments will be made. Mr. Ishii disclaimed any knowledge of the law in question, which he states was prepared by the Government General of Chosen. He says he spoke of the matter to Viscount Terauchi, who will take steps to investigate it on his return to Seoul, which he expected to reach on December 23.

The British ambassador here, acting upon the report made by his consul general at Seoul, sent to the foreign office a note much stronger than mine, and has on several occasions informed me that the British Government considered, as an absolute prerequisite to any steps taken by the Government of Chosen, that the authenticity of their consular records should be unquestioned.

I have, etc.,

MONTGOMERY SCHUYLER.

[Inclosure.]

The American Chargé d'Affaires to the Minister for Foreign Affairs.

No. 515.] TOKYO, *December 15, 1910.*

YOUR EXCELLENCY: I have the honor to inform your excellency that I am in receipt of a communication from the American consul at Seoul, inclosing a copy of a letter to him, dated the 5th instant, from Mr. Ariyoshi, chief of the general affairs department of the Government General of Chosen, with translations of law No. 7, promulgated August 24, 1910, and regulations for the investigation of land in Korea.

As this law was promulgated before the annexation of Korea, I should have taken it for granted that it was not intended to apply in any way to foreigners except for the facts that Article IX of decree No. 26 of the department of finance, dated August 23, reads, "Foreigners shall mention their nationalities below their names," and that Mr. Ariyoshi's letter requests Mr. Scidmore to bring the new rules to the notice of American citizens.

Laying aside any discussion as to the right of the authorities in Chosen to enforce this law in the case of American cititens at this time, I beg to assure your excellency that this embassy, animated by a sincere desire to cooperate in every possible way with the Imperial Government in its prospective reform in Korea, would be inclined to urge upon American citizens owning land in that country the advisability of prompt compliance with this law, were it not for the following reasons:

Both Mr. Ariyoshi's letter and the stipulations of the law and regulations themselves entirely ignore the fact that the various foreign consulates at Seoul contain in their archives accurate records of the purchase of lands by

their respective nationals. There has always been in the American consulate general special provision for the recording of all land bought by Americans in Korea, and these records have been made with the greatest care, those since 1906 having been made in consonance with the Korean land law and regulations of that year. The title deeds, after certification by a local magistrate and the nearest Japanese resident, with copies of the necessary certificates and other documents, have been duly recorded in the consular archives. This course has naturally involved much time, trouble, and expense to the purchaser, and as it is understood that this system has operated with satisfaction, it does not seem either necessary or just that these carefully prepared records should be absolutely ignored as they are in the new law.

Moreover, Chosen being still largely a land of somewhat primitive means of communication, American citizens, especially missionaries, residing in distant parts of the country, where they have purchased numerous tracts of land, would find it impossible in many districts, within the limited time allotted in which applications for investigations must be filed, to comply with the law, and great hardship would be caused and much unnecessary discontent aroused by this measure. Articles V, VI, VII, VIII, and XII seem especially stringent and arbitrary.

I have felt it necessary to enter into some detail in this matter with a view to emphasizing the great hardship which the enforcement of this land investigation would work upon many worthy American citizens who have acquired land in Korea, not only for business but for praiseworthy philanthropic and educational enterprises, and whose efforts it is believed are conducive of great good to the Korean people. Their lands have been bought in good faith, properly recorded, and, in many cases, enjoyed for years without molestation.

Mr. Scidmore requests instructions from this embassy by telegraph. Before replying, however, I have ventured to lay the foregoing considerations before your excellency, being confident that a presentation of the case will bring about a satisfactory modification of the provisions of the above-mentioned law.

I avail, etc.,

MONTGOMERY SCHUYLER.

File No. 895.52/1a.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, D. C., *January 23, 1911.*

Have you made progress in the matter of property rights of foreigners in Korea?

File No. 895.52/2.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

TOKYO, *January 25, 1911.*

Your January 23. In an interview I had with him to-day the minister for foreign affairs declared that land titles of foreigners will be carefully respected and that consular registrations will be treated as prima facie valid. He will make formal replies without delay.

O'BRIEN.

File No. 895.00/535.

[Telegram—Paraphrase.]

TOKYO, *February 6, 1911.*

The minister for foreign affairs has confirmed satisfactorily what he had expressed in conversation concerning consular registration.

O'BRIEN.

File No. 895.00/539.

No. 1296.] AMERICAN EMBASSY,
Tokyo, February 7, 1911.

SIR: I have the honor to inclose herewith a copy of my note (No. 525) to the minister for foreign affairs, dated the 2d instant, on the subject of the transfer to the proper courts at Seoul of criminal proceedings against American citizens in Chosen; also a copy of the note (No. 6) in reply, dated the 6th instant. These notes, in conjunction with my telegram of yesterday [1] will put the Department in possession of the manner in which the matter has been disposed of. I venture to hope that my action will have the approval of the Department.

I have, etc.,

T. J. O'BRIEN.

[Inclosure 1.]

The American Ambassador to the Minister for Foreign Affairs.

No. 525.] AMERICAN EMBASSY,
Tokyo, February 2, 1911.

EXCELLENCY: Referring to your excellency's note of November 29 last, on the subject of the procedure in Chosen in cases in which American citizens are concerned, being a reply to my note to you on the same subject, dated October 14 preceding.

Within the last few days I have discussed informally with you the subject matter of this correspondence, and only yesterday had a conversation with Mr. Ishii, vice minister. In your note in question, you told me that on the 28th of November the governor general of Chosen issued a decree, which reads as follows:

> The governor general of Chosen, whenever he deems it specially necessary, may order that criminal cases coming within the competence of one district or local court shall be dealt with by another court of the same grade.

This decree falls short of what was suggested in my note of October 14, above referred to, and some change or modification has been discussed by us. As a result, I understand that while the Imperial Government prefers to leave the decree in question undisturbed and unchanged, you are nevertheless willing formally to say in writing that in any case where an American citizen is charged with a criminal offense in any part of Chosen, the procedure against him shall, on his request to the court or magistrate before whom the same is pending, be transferred for further proceedings or trial to the proper court at Seoul having jurisdiction of the subject matter of the charge.

In view of the fact that the decree was made by the governor general, no doubt you will wish that he join in the foregoing. The matter will thus become one of record not only in your excellency's department in Tokyo, but also in the archives of the Government General at Seoul. In this way the arrangement, while limited in its application, will still be of as high an authority as the decree and other regulations made by the Government General in that territory.

Upon receiving your excellency's reply, conforming to my understanding, as outlined above, I shall be glad to make known to my Government its character, and shall also advise that it be considered acceptable.

I avail, etc.,

T. J. O'BRIEN.

[Inclosure 2.]

The Minister of Foreign Affairs to the American Ambassador.

No. 6.] FOREIGN OFFICE,
Tokyo, February 6, 1911.

MR. AMBASSADOR: I have the honor to acknowledge receipt of your excellency's note of the 2d instant, on the subject of the transfer to the proper courts at

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[1] Not printed.

Seoul of criminal proceedings which may be instituted against American citizens in Chosen.

I have duly referred to the governor general of Chosen your excellency's suggestion contained in the note under acknowledgment, and the Imperial Government are entirely prepared to give the desired assurance, having in view the existing state of things in the new territory, that in any case where an American citizen is charged with a criminal offense in any part of Chosen the governor general, in the exercise of the authority provided for in the decree of November 28, 1910, will order, at the request of the accused, that the procedure against the latter be transferred to the proper court at Seoul having jurisdiction of the subject matter of the charge. It is confidently hoped that the foregoing assurance will be found satisfactory by the American Government, as well as by your excellency.

I avail, etc.,

COUNT KOMURA.

File No. 895.52/3.

No. 1297.] AMERICAN EMBASSY,
Tokyo, February 7, 1911.

SIR: I have the honor to inclose herewith a copy of my note (No. 526) to the minister for foreign affairs, of the 2d instant, on the subject of the rights of American citizens claiming title to real property in Chosen (Korea); also a copy of the note in reply to the foregoing, dated the 4th instant. From these it will appear that the Japanese Government has acceded to our wishes as fully as could be fairly expected.

The records of title now on file in the office of our consul general at Seoul will be treated as prima facie evidence of good title in the claimant. As they were obtained for the most part ex parte it would be hardly fair to ask this Government, acting in an administrative way, judicially to pass upon the validity of the claimants' rights. The latter will therefore find it necessary, as against another American or other person, to defend his title, having in advance the advantage of a prima facie title. The advice of the minister to have these titles passed upon now, and thereby to be made conclusive, should in my opinion be followed, and I will so advise Mr. Scidmore, consul general, upon receiving from the Department authority to do so.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

The American Ambassador to the Minister for Foreign Affairs.

No. 526.] AMERICAN EMBASSY,
Tokyo, February 2, 1911.

YOUR EXCELLENCY: Referring to Mr. Schuyler's note to you No. 515 of December 15 last, with regard to investigations of land titles in Korea, I do not recall that any reply has been received, but the matter has been informally discussed between your excellency and myself within the past few days.

Your excellency will have observed from Mr. Schuyler's note that a large number of American citizens have heretofore filed with the American consulate general at Seoul certain evidences of title to different parcels of land, and these records, being accessible to all concerned, constitute, I suppose, for the most part the muniments of title of the parties in interest.

As a result of our conversation it was understood that these records should in all courts and places be treated as prima facie evidence of title. May I ask that your excellency will state in reply whether or not I have a correct understanding of our informal agreement.

I avail, etc.,

T. J. O'BRIEN.

[Subinclosure.]

The Minister for Foreign Affairs to the American Ambassador.

[Translation.]

No. 5.] DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, February 4, 1911.

Mr. AMBASSADOR: I have the honor to acknowledge receipt of the note of December 15 last addressed to me by Mr. Schuyler, then chargé d'affaires of the United States, on the subject of the law relating to the investigation of land in Chosen.

The Government General of Chosen, to which I referred Mr. Schuyler's communication under acknowledgment, now inform me that, in full appreciation of the friendly sentiment expressed in that note, they have submitted the question in all its phases to a careful examination. They desire in the first place to explain that the law in question is intended to set at rest all apprehensions and misgivings which rightful owners of land in Chosen naturally feel in the enjoyment of such property, considering the dubiousness and confusion which actually exist there in the system of land tenure. The formalities complied with under the Korean ordinance of 1906 relating to the certification of land and buildings are not sufficiently effective to realize the desired end. While such certification is sufficiently conclusive as between the parties to the agreement which it attests, it has been held at the courts of law to be unavailable as against bona fide third parties, who may therefore come forward at any moment with claims on the certified land, wholly or partially denying the effects of the certification. To prevent purchasers or mortgagees of land against those unexpected claims, and to afford them suitable guarantees for the future, it has been found essential to institute a thorough investigation of all lands in Chosen, in spite of considerable expenses and labor for the Government General which the undertaking naturally involves. In consequence of such investigation the ownership and boundary of each lot will be confirmed and established beyond all controversy.

It is pointed out in Mr. Schuyler's note that the measures contemplated by the Government General of Chosen entirely ignore the fact that the American consulate general at Seoul keeps in its archives accurate records of the purchase of lands by American citizens. I am assured by the Government General that such consular records, far from being ignored, will be taken as establishing prima facie presumption in favor of those who are therein duly recorded. It would, however, seem impracticable that they should be regarded as conclusive to the exclusion of all claims which the subjects or citizens of other nationalities may advance upon the production of cogent evidence in regard to the items contained in those records. In case such claims are advanced, and if all attempts of the authorities concerned to reach a friendly adjustment between the parties in interest fall through, it will be the duty of the president of the land investigation board to decide the questions at issue, upon an exhaustive examination of the case, it being understood that the consular records will be presumed to be valid unless rebutted. If either party is not satisfied with the decision of the president of the land investigation board, it is open to him to take appeal to the high commission of land investigation, presided over by the governor general and composed of judges and high officials. It will thus be observed that due weight will be attached to the consular records in question, and that the new law is designed to assure and safeguard, instead of interfering with, the rights of landowners in Chosen.

I am further informed by the Government General that in regard to lands duly recorded in the American consular archives, the production of certified copies of such records will be held a valid application for investigation provided for in Article V of the law. Those certified copies shall be tendered either to the competent officials dispatched to the spot or to the central office of the land investigation board at Seoul. As regards the period within which such procedure should be taken, due notice will be given to holders of lots concerned or their agents.

Concerning Article VI, the owners of lots recorded in the consular archives will not be called upon to be present at the spot of the actual investigation, except when it is found impossible to identify the location of the lots thus recorded. In any case, however, it would be advisable for them to appear spontaneously either in person or by agents, as such attendance will facilitate them in the defense of their undoubted rights.

It has already been remarked that the provisions of Articles VII and VIII, to which reference is made in Mr. Schuyler's note, in regard to decisions of the president of the land-investigation board, and to appeals to the high commission, do not imply any undue interference with the rights of landowners. On the contrary, those provisions are believed, in the actual state of things in the new territory, to secure the most satisfactory and efficient working of the investigation, while insuring protection of the property rights legally acquired in Chosen.

As regards the observations made by the American chargé d'affaires in reference to Article XII concerning the penalty for nonconformity with the requirements prescribed in Articles V and VI, the qualifications of the terms of Article XII by the words "without proper reasons" would be sufficiently assuring to persons who, on account of some justifiable grounds, may be prevented from complying with the provisions of the law. Besides, in view of the liberal treatment to be accorded, as above stated, to the holders of lots recorded in the consular archives, in respect of the requirements under Articles V and VI, it is expected that the application of penalty to those holders will be practically out of the question.

Having regard to the foregoing considerations the Imperial Government are unable to find anything in the measures thus contemplated by the Government General of Chosen which would unjustly cause inconvenience or hardship to American landowners, and they confidently hope that in the light of the above explanations your excellency may be persuaded of the advisability for American citizens of prompt compliance with the law in question for the lasting security of their rights as well as for the common weal of all those who are legally interested in landed property in Chosen.

I avail, etc.,

COUNT KOMURA.

File No. 895.52/4.

Tokyo, April 8, 1911.

AMERICAN EMBASSY,

SIR: Referring to recent correspondence concerning the land-investigation law of Chosen, I have the honor to transmit herewith copies of self-explanatory letters, dated March 20 and April 4, as received from the consul general at Seoul.

I have, etc., (For Mr. O'Brien.)

MONTGOMERY SCHUYLER.

[Inclosure 1.]

The American Consul General to the American Ambassador.

No. 2139e.] AMERICAN CONSULATE GENERAL,
Seoul, March 20, 1911.

SIR: Referring to my No. 1754 E of December 9, 1910, and to your C. No. 1514 of February 7, 1911, relating to the land-investigation ordinance of August 24, 1910, I have the honor to inclose herewith a copy of a letter from the director of the bureau of foreign affairs of the Government General of Chosen, together with a copy and translation of its inclosure. It will be noted that the promises made in Count Komura's note of February 4, 1911, are substantially carried out thereby.

I have therefore the honor to request that I be informed whether I shall notify American citizens holding land to comply with the provisions of the ordinance in question.

I have, etc.,

GEO. H. SCIDMORE.

[Inclosure 2.]

The Director of the Bureau of Foreign Affairs to the American Consul General.

No. 26.] GOVERNMENT GENERAL OF CHOSEN,
Keijo, March 18, 1911.

SIR: An instruction has been given to the officials concerned concerning among others the acceptance of copy of consular registration as the information re-

quired to be submitted by landowners under the land-investigation law and the detailed regulations relating to its enforcement.

I have the honor to send you herewith inclosed a Japanese copy of the above instruction which you may notify to your nationals whom it may concern.

I have, etc.,

M. KOMATZU.

[Subinclosure—Translation.]

INSTRUCTIONS TO OFFICIALS.

1. Although the report in Article V of the investigation law should follow the form described in the detailed regulations, if a former resident's land certificate or copy, or copy of a foreign consular land record be presented in lieu thereof by a landholder, such copy shall be considered as a report and accepted, and regular report need not be presented.

2. Although Article VI of the investigation law provides for the actual presence of the landowner or his representative whenever the investigation official deems it necessary to ask for their presence, in case the presence of a landowner or his representative living at a distance is requested, investigation may be made with the presence of the heads of a town or village or other general representative of landholders who thoroughly understands the land of the district. Only in case the location or boundaries of the land are not clear without the actual presence of the landholder or his representative living at a distance shall they be summoned. Care shall be taken not to cause hardship to a landowner or his representative living at a distance. In case the presence of a landowner or his representative is requested, suitable time allowance should be made for mails and other circumstances.

EXTRADITION OF CRIMINALS FROM AND TO THE PHILIPPINE ISLANDS.

File No. 211.94/3.

The American Ambassador to the Secretary of State.

[Telegram.]

TOKYO, *August 14, 1911.*

Governor-General Forbes asks me to cause arrest here and hold for extradition a Filipino charged with murder. The Japanese Government requests me to state, before acting, that the Philippine Islands are to be considered within our extradition treaty.

O'BRIEN.

The Secretary of State to the American Ambassador.

[Telegram.]

WASHINGTON, *August 16, 1911.*

The extradition provisions of the Revised Statutes are extended to the Philippine Islands by the act of February 6, 1905, Statutes at Large, volume 33, page 698; it provides that extradition to and from the islands shall be made pursuant to provisions of regular extradition treaties between the United States and other countries.

KNOX.

LIBERIA.

NOTE.—The following subjects should be read in connection with the instructions given April 13, 1909, by the Secretary of State to the commissioners appointed by the President to investigate Liberian conditions, to be found at page 705 of the 1910 volume of Foreign Relations; also in connection with the report of the commissioners, and that of the Secretary of State transmitting it to the President, which are printed in Senate Document 457, Sixty-first Congress, second session.

File No. 882,032.

MESSAGE OF THE PRESIDENT TO THE CONGRESS.[1]

[Extract.]

The report of the American commission to Liberia was submitted by President Taft to Congress March 25, 1910. A copy was received by the Government in August. Your honorable body will remember the points of the memorial which you caused to be submitted to the commissioners. They are, briefly enumerated:

A guaranty of independence and integrity.

Advice and counsel with regard to international affairs.

Advice and counsel with regard to liquidation of foreign and domestic debt, control being assumed by American experts for the purpose of systematization and organization of the customs and financial administration.

Experts to be furnished to initiate and carry through reforms deemed necessary.

Establishment of an American bank with American capital, to assist the Government and to further public improvements.

Assistance in the settlement of boundary questions at issue between Liberia and her neighbors.

Establishment of a research station.

Aid in the establishment of industrial schools.

Aid in establishing civilized centers on the frontiers.

Supervision of organization of the police and frontier force under American officers.

And that warships of the United States should visit Liberia annually or oftener.

The commission made a very fair, well-digested, and exhaustive report. Its recommendations were:

1. That the United States aid Liberia in the prompt settlement of pending boundary disputes.

2. That the United States enable Liberia to refund its debt by assuming, as a guaranty for the payment of obligations under such arrangements, the control and collection of the Liberian customs.

[1] Dec. 13, 1910. Transmitted by the American Minister in dispatch dated Jan. 26, 1911.

3. That the United States lend its assistance to the Liberian Government in the reform of its internal finances.

4. That the United States should lend its aid to Liberia in organizing and drilling an adequate constabulary or frontier force.

5. That the United States should establish and maintain a research station in Liberia.

6. That the United States reopen the question of reestablishing a coaling station in Liberia.

I think the report of this commission should be carefully perused and studied, and it has been ordered to be printed.

The Government of the United States in the month of June of the present year informed our administration that the President had decided to lend Liberia assistance in the financial, military, and agricultural departments; and, further, that the said Government will affirmatively at the proper time enter upon negotiations to secure respect for the ascertained boundaries of Liberia.

It was suggested that financial assistance take the form of a loan to be raised by an American banking firm which would have British, French, and German partners, for the payment of the foreign and domestic indebtedness, to be secured on the customs and head moneys. The security for this loan would be a receivership of customs, to be held by an American official, who would be also the financial adviser of the Government of Liberia, assisted by three officers of British, French, and German nationalities. The revenue from customs and head moneys would primarily be received by these officers and, after meeting the obligations agreed upon by the two States, the balance to be paid into the treasury of the Republic for administrative purposes other than those coming under the supervision of the American receiver.

At the suggestion of the Secretary of State, Washington, Mr. R. P. Falkner, former chairman of the American commission sent to Liberia, was appointed financial representative of Liberia in the United States and Europe, to make arrangements for the proposed loan, subject to the approval of the Liberian Legislature. The Government of Liberia became responsible for the sum of $4,000 for his expenses, which amount the legislature is now requested to approve and place in the budget of 1911. Mr. Falkner has not yet submitted any scheme or reported the final results of his efforts. He has met with great difficulties.

Other matters mentioned in the note of the American Government have not as yet taken shape.

THE LIBERIA-SIERRA LEONE BOUNDARY.

File No. 741.8215/25.

The American Ambassador to Great Britain to the Secretary of State.

[Telegram.]

No. 709.] LONDON, *November 3, 1910.*

Some months ago the Liberian minister here, at the request of the British Government, advised Liberia to settle the outstanding question of cession of Kanré-Lahun to Great Britain in exchange for other territory and possibly pecuniary compensation in addition.

Yesterday Sir F. Campbell said to me that the British Government now asks the Government of the United States to use their good offices with the Liberian Government to hasten settlement of this question, which His Majesty's Government desire to have satisfactorily arranged before completion of the loan negotiations. Cromelin assures me that a settlement on these lines is likewise desired by the President of Liberia and feels that the latter needs the moral support of the United States in order to bring this about.

REID.

The Secretary of State to the American Ambassador.

No. 1413.] DEPARTMENT OF STATE,
Washington, November 15, 1910.

SIR: The Department has received your telegram of the 3d instant relative to [etc.].

In reply you are informed that the Department will be glad to use its good offices to obtain a settlement of the boundary question between Liberia and the British colony of Sierra Leone, and in order that the Department may act intelligently in the matter it would appreciate a statement from the British Government as to the details of the offer that was made to Liberia.

I am, etc.,

P. C. KNOX.

File No. 741.8215/29.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, January 16, 1910.[1]

DEAR MR. SECRETARY: On the 6th of November last Sir Edward Grey informed the American ambassador in London that the Liberian minister in London had advised his Government to come to settlement with His Majesty's Government in regard to the question of the Kanré-Lahun boundary before the American loan, now in contemplation, was made and the new régime under American auspices.

On December 2 Sir Edward Grey communicated to Mr. Whitelaw Reid a note[2] and memorandum[1] setting forth the history of this question and expressing the hope that the United States Government might see their way to send telegraphic instructions to the United States minister at Monrovia "to support the proposals of His Majesty's Government for an amicable settlement of the question and generally to lend his good offices to facilitate the negotiations." I understand that His Majesty's consul general at Monrovia was at the same time instructed to communicate the information contained in this memorandum to Mr. Crum.

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[1] Should be 1911.
[2] Not printed; no correspondence ensued between the two Governments about the memorandum.

It now appears that the President of the Liberian Republic has agreed to the proposals of His Majesty's Government for the settlement of this question, and that he has to-day (January 16) laid them before the Senate for ratification. It also appears probable that the Senate will be guided in their decision by the advice of the United States minister.

In view of the fact that the Senate will adjourn on January 24 the earliest possible action in the matter is highly desirable, and as His Majesty's Government are informed that the United States minister at Monrovia has as yet received no instructions from his Government, Sir E. Grey wishes me to inform you of the present position and to express the earnest hope that you may see your way to use your influence in favor of the proposed settlement of this question. As the time is now very short, I would suggest for your consideration whether it might not be desirable that instructions should be sent by cable to the representative of your Government at Monrovia.

I am, etc.,

JAMES BRYCE.

File No. 741.8215/28.

The Secretary of State to the American Minister to Liberia.

[Telegram.]

WASHINGTON, *January 19, 1911.*

Department is informed that the British Government has offered to settle northwest boundary dispute with Liberia on basis of exchange of Kanré-Lahun district for Morro-Manu territory and £4,000 as cost of developing new district. Department is further informed that President Barclay has agreed to the British proposal and laid it before the Senate for ratification. The Department is of opinion that under all the circumstances the proposal offers as satisfactory a settlement of this long-standing and much-involved dispute as Liberia may hope to secure, and therefore its prompt ratification would be regarded favorably by this Government. You will bring this attitude of the Department to the attention of the Liberian Government.

KNOX.

File No. 741.8215/28.

The Secretary of State to the American Ambassador at London.

[Telegram.]

WASHINGTON, *January 19, 1911.*

Your number 752.[1] Department has to-day cabled Minister Crum to inform Liberian Government that settlement of northwest boundary dispute on basis of exchange of Kanre-Lahun for Morro-Mano territory and £4,000 as cost of development of new territory would be favorably regarded by this Government.

KNOX.

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[1] Not printed.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, January 23, 1911.

MY DEAR MR. AMBASSADOR: I beg to acknowledge receipt of your personal note of the 16th instant, relative to the Kanré-Lahun boundary question, and to say in reply that the Department on the 19th instant cabled the American minister at Monrovia to inform the Liberian Government that the prompt settlement of the question of the Kanré-Lahun boundary on the basis of the exchange of Kanré-Lahun for the Morro-Mano territory and £4,000 as the cost of developing the new territory would be favorably regarded by this Government.

I am, etc.,

P. C. KNOX.

File No. 741.8215/31.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, January 24, 1911.

MY DEAR MR. SECRETARY: I beg to acknowledge the receipt of your personal note of yesterday, in reply to mine of the 16th, informing me of the instructions sent on the 19th instant to the American minister at Monrovia regarding the question of the Kanre-Lahun boundary.

I have much pleasure in expressing to you my thanks for your courteous action in the matter and the friendly spirit in which you have met the request of His Majesty's Government.

I am, etc.,

JAMES BRYCE.

File No. 882.51/178.

The American Minister to Liberia to the Secretary of State.

[Telegram.]

MONROVIA, *January 27, 1911.*

The Kanre-Lahun boundary agreement has been ratified by the senate.

CRUM.

File No. 741.8215/37.

The American Chargé d'Affaires at London to the Secretary of State.

No. 1569.] AMERICAN EMBASSY,
London, February 1, 1911.

SIR: I have the honor to inclose herewith a copy of a note[1] which I have received from the foreign office, dated the 31st ultimo, stating that Sir Edward Grey is informed by the British consul general at Monrovia that the Sierra Leone-Liberia frontier agreement has been ratified by the Government of Liberia. Sir E. Grey also expresses

thanks for the action taken by this embassy and by the Department in facilitating the settlement of the question.

I have, etc.,

WILLIAM PHILLIPS.

FRANCO-LIBERIAN BOUNDARY.

[See below, under "Financial reform," note of the French minister for foreign affairs, dated Feb. 2, 1911, last paragraph.]

FINANCIAL REFORM.

File No. 882.51/50a.

The Secretary of State to the American Minister.

[Telegram.]

WASHINGTON, *June 18, 1910.*

In continuation department's cable 11th.[1] Financial arrangements have reached stage that makes it necessary for Liberia to appoint financial representative to negotiate ad referendum with bankers. Department suggests appointment of Dr. Falkner, chairman of the American commission to Liberia, who has been intimately associated with the negotiations. Kuhn, Loeb & Co., William and Pine Streets, New York, the American bankers interested, are willing to advance Falkner's expenses up to $4,000, and charge same as part of expense of loan. If this plan agreeable to Liberia, Department suggests that Liberia first cable Falkner, care Department, notification of his appointment; secondly, cable bankers to place funds at Falkner's disposal on above understanding; thirdly, mail credentials in due form to Falkner, care American consul general, Hamburg. Credentials might read: "Know all men by these presents, that Roland P. Falkner, of the United States of America, is hereby appointed special financial representative of the Republic of Liberia with full power and authority for and in the name of the Republic of Liberia to negotiate, conclude, and sign an agreement with a banking firm or firms for the purpose of raising a loan to pay off or refund the foreign and domestic debts of the Republic, the said agreement to be subject to the ratification of the President of Liberia by and with the advice and consent of the legislature thereof. In testimony whereof," etc. Foreign nations pressing for reorganization of Liberian finances and Department should have reply as soon as possible.

KNOX.

File No. 882.51/52.

The American Minister to the Secretary of State

[Telegram.]

AMERICAN LEGATION,
Monrovia, June 21, 1910.

Cables under date of 11th and 18th received. Government of Liberia officially informed the appointment of Falkner. Instruc-

[1] See Foreign Relations 1910, p. 709.

tions to American bankers cabled to-day. Commission by mail as advised in cable. Full information by cable after a meeting of the Cabinet.

LYON.

The Acting Secretary of State to the American Minister.

[Telegram.]

WASHINGTON, *June 22, 1910.*

Falkner's appointment received and delivered. To avoid possible misunderstanding, his designation and powers should be described in commission as quoted in Department's cable of June 18. Inform Liberian Government.

WILSON.

The Secretary of State to the American Minister.

[Telegram.]

WASHINGTON, *June 23, 1910.*

After consultation with bankers, Department thinks negotiations for refunding Liberia's debts would be facilitated if Falkner had authority while in Europe on his way to Monrovia to secure options on outstanding indebtedness. To do this additional credentials should be sent him reading:

With full power and authority for and in the name of the Republic of Liberia to arrange for the repayment or refunding of the foreign loans of Liberia and for the payment, funding, or refunding of the domestic debts of Liberia and for the adjustment of any other outstanding indebtedness of Liberia or claims against Liberia of any description whatsoever, the said arrangements to be subject to the ratification, etc.

Bring this to the attention of the Liberian Government and state that Dr. Falkner expects to sail for Hamburg July 9, and his commissions should meet him there.

KNOX.

File No. 882.51/54.

The American Minister to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Monrovia, June 24, 1910.

Cables June 22 and 23 received. Government of Liberia have complied with their suggestions. Falkner's commissions will meet him in Hamburg. Program as outlined by our Government is approved. They want our Government to define the duties of the financial adviser for legislative action, as this was the cause of trouble before. A memorandum to Falkner suggests the following:

First, loan to be not more than two millions, to run fifty years at not more than 5 per cent; second, amortization for the first twenty-

five years not more than 1 per cent or less; third, provisions be made for a working bank credit of one hundred thousand annually.

LYON.

File No. 882.51/60.

Informal statement for the guidance of Mr. Falkner and the American banking group (not dated).

MEMORANDUM.

After the most exhaustive and deliberate study, the Department of State reached the conclusion that it could support the bankers' agreement with Liberia as now drafted. In deference to the interests of Great Britain and France and to the commercial interests of Germany, the Department was glad to have the American group admit associates of those three nationalities, as well as of the Netherlands. The Department of State informed the German ambassador that it would probably be possible to have a German subject employed in some capacity under the receivership. It was afterwards thought appropriate that one person of each of the nationalities supplying most of the remainder of the loan should also be so employed. The inclusion of non-American capital and of a French, a German, and a British assistant is known to be the maximum non-American participation which would be acceptable to Liberia. Any plan more complicated or more costly than that embodied in the draft agreement would be quite out of proportion to the transaction and unnecessarily burdensome on Liberia and would seem unlikely to work well.

These and other considerations make it impossible for the Department of State to favor any material departure from the agreement as now drafted.

File No. 882.51/153.

The French Minister for Foreign Affairs to the American Ambassador to France.

[Translation.]

MINISTRY OF FOREIGN AFFAIRS,
Paris, December 5, 1910.

MR. AMBASSADOR: By a letter of November 15 last[1] your excellency was good enough to express the desire to know if the Government of the Republic accepts the proposals of the Federal Government with reference to Liberia which your excellency communicated to my department on the 27th and 28th September last.

I have the honor to advise you that the Government of the Republic is ready to give its adhesion to these proposals of the Federal Government, subject to receiving satisfactory assurances as to—

1. The maintenance of absolute economic equality for all the powers in Liberia.

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[1] Not printed.

2. The settlement of the question of the Franco-Liberian boundary as adopted by the last Franco-Liberian boundary commission.

3. The participation of France in the financial organization of the country.

The Government of the Republic desires, furthermore, the retention of the French doctor charged with the direction of public hygiene.

Accept, etc., S. PICHON.

File No. 882.51/182.

[Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Paris, February 2, 1911.

Mr. AMBASSADOR: By a letter of January 24[1] your excellency was good enough to inform me in the name of your Government that the Government of the United States is ready to give the assurances that the Government of the Republic desired to receive before adhering to the North American project concerning Liberia.

I have the honor to take due notice of this declaration.

The agreement on this subject being thus established, the Government of the Republic will have no objection to the putting into effect of the North American project in question under the agreed conditions.

I add that the chargé d'affaires of Liberia in Paris signed, on January 13, the act of Franco-Liberian delimitation. The frontier question is therefore now and henceforth settled.

Accept, etc.,

S. PICHON.

File No. 882.51/216a.

The Secretary of State to the German Ambassador.

No. 470.] WASHINGTON, *June 29, 1911.*

EXCELLENCY: Referring to previous correspondence concerning the proposals of this Government for the amelioration of conditions in Liberia, and especially to the informal negotiations which have been in progress between the embassy and the Department for the past few months with a view of agreeing upon a mutually acceptable wording of the draft-loan agreement, it gives me great pleasure to state that the Department is now prepared, as an evidence of its sincere desire to meet the wishes of the Imperial German Government with respect to Liberia and secure your Government's approval of this Government's proposal, formally to propose the amendments to the original draft agreement (seventh revise, May 21, 1910) contained in the attached schedule.[1] It is understood that the loan agreement as thus amended will be acceptable to your Government, and I will be glad to receive an official assurance of that fact.

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[1] Not printed.

In communicating this proposal to you I wish to assure your Government that the United States does not and will not seek for its citizens any exclusive or preferential commercial rights or privileges in Liberia, and as the friendly adviser of Liberia it will counsel the maintenance of absolute economic equality for the nationals of all powers.

In conclusion I may add that if there is now or shall hereafter be established in Liberia a commission for the examination of the claims of private creditors of the Liberian Government, and the claims of German subjects are brought before the commission, the Department will be pleased to recommend to the Government of Liberia that a German subject be placed on said commission.

Accept, etc.,

P. C. KNOX.

File No. 882.51/217.

The German Ambassador to the Secretary of State.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, June 30, 1911.

Mr. SECRETARY OF STATE: In reply to your note of the 29th instant, serial No. 470, I have the honor respectfully to say that I am authorized by the Imperial Government to accept the amendments to the loan agreement with Liberia as proposed in the aforesaid note.

Accept, etc.,

J. BERNSTORFF.

File No. 882.51/215.

The British Minister for Foreign Affairs to the American Ambassador to Great Britain.

FOREIGN OFFICE,
No. 19859/11.] *London, June 13, 1911.*

YOUR EXCELLENCY: On the 24th ultimo I had the honor to receive a note from your excellency dated May 23,[1] transmitting a copy of the schedule of amendments to the draft agreement for an international loan to the Republic of Liberia, which your excellency had received instructions to submit to His Majesty's Government for their approval.

I have now the honor to inform your excellency that His Majesty's Government approve of the terms of these amendments.

I have, etc.,

W. LANGLEY.

(For Sir Edward Grey.)

[1] Not printed.

File No. 882.51/283.

The Secretary of State to the British Ambassador.[1]

DEPARTMENT OF STATE,
Washington, December 21, 1911.

EXCELLENCY: Referring to previous correspondence with reference to the negotiation of a loan for the rehabilitation of the finances of Liberia, I take pleasure to transmit herewith, for the information of your Government and as a substitute for all preceding proofs, a copy of the final revise of the agreement for Government refunding loan, in the form in which it was approved by the Legislature of Liberia and signed by the President of that Republic on the 18th ultimo.

The Department has found it necessary to introduce into the bankers' agreement a number of changes in order to insure the cordial approval of all the governments concerned in the customs receivership to be established as security for the loan. Besides the changes which were made necessary by the increase of the amount of the loan to $1,700,000, several changes in form were made which have the effect of making the receivers advisers of the general receiver in a more intimate sense than was contemplated by the original agreement and by the loan act of 1911.

The Liberian Government has appointed as general receiver Mr. Reed Paige Clark, who expects shortly to leave the United States for his post.

It is thought that the conclusion of the contract for the loan will be completed in the near future, when your Government will be asked for its formal acquiescence in the agreement and for the appointment of its receiver under the terms of the contract.

I have, etc.,

P. C. KNOX.

[1] Mutatis mutandis to the French and German ambassadors.

MEXICO.

POLITICAL AFFAIRS.

REVOLUTION. ORGANIZATION OF REVOLUTIONARY GOVERNMENT OF FRANCISCO I. MADERO. SUSPENSION OF CONSTITUTIONAL GUARANTIES. MESSAGE OF PRESIDENT DÍAZ. ARMISTICE AND TREATY OF PEACE. RESIGNATION OF PRESIDENT DÍAZ. PROVISIONAL PRESIDENCY OF DE LA BARRA. ELECTION OF CARRANZA GOVERNOR OF COAHUILA. RECOGNITION OF DE LA BARRA'S GOVERNMENT BY THE UNITED STATES, MAY 27, 1911. THE ZAPATA MOVEMENT. PROGRESSIVE CONSTITUTIONAL PARTY CONVENTION AND PLATFORM. MESSAGE OF PRESIDENT DE LA BARRA. ELECTION AND INAUGURATION OF PRESIDENT MADERO. ARREST OF GENERAL REYES IN THE UNITED STATES. MEASURES TAKEN IN ANTI-AMERICAN DEMONSTRATIONS AND TO PREVENT BREACH OF NEUTRALITY LAWS. ACTION OF DIPLOMATIC CORPS AT CITY OF MEXICO. TRANSPORTATION OF MEXICAN TROOPS THROUGH BORDER STATES OF THE UNITED STATES.

NOTE.—The events directly tributary to the following correspondence go back at least as far as April 2, 1903, when, organized opposition to the Government of President Díaz having appeared at the State elections of Nuevo León, the State authorities suppressed a large but pacific demonstration of Oppositionists at Monterrey, not without bloodshed. In 1905 the Nuevo Leonese elections again impending, the opposition formed "Benito Juárez Democratic Clubs," which ramified through the State. A State convention was called, which out of prudence was held in the City of Mexico, where a platform was drafted with "No reelection for governor or municipal presidents" as its chief plank. This convention attracted national attention, as did the occurrences of election day, which showed the futility of opposition at the polls.

The opposition received new strength in 1908 in consequence of a statement of President Díaz to James Creelman, published in the March number of Pearson's Magazine, where the President was quoted as declaring, "No matter what my friends and supporters say, I retire when my presidential term of office ends, and I shall not serve again. * * * I welcome an opposition party in the Mexican Republic. * * * If it can develop power, not to exploit but to govern, I will stand by it." This interview encouraged the formation of the No reelection or Antireelection Party, and hastened the publication (October, 1908) of Francisco I. Madero's book, "La Sucesión Presidencial," which voiced that party's sentiments and had for its immediate object the formation of a public opinion against the reelection of President Díaz in 1910.

While such pacific propaganda was going on, many revolutionists, not content to await the result of the 1910 elections, gathered on the border, and occasional armed conflicts occurred on or close to the boundary line, as when on June 26, 1908, some 40 men, who had somehow armed themselves on the American side of the border, attacked the Mexican garrison at Las Vacas, opposite the railway junction at Del Rio, Tex., withdrawing after losing several men and exhausting their ammunition. Such attacks, shared in by men of considerable education and ardent political partisanship, added greatly to the tasks of the United States Federal officers, whose regular work had been to deal with cattle thieves, smugglers, and fugitives. Of the vigilance of these officers President Díaz spoke as follows on September 16, 1908, in his message to the Mexican Congress:

> When attacks were made on small border towns by bands of outlaws the Washington Government has not only concentrated forces along the boundary line to prevent the fleeing marauders from seeking refuge in American territory, but has also instituted prosecutions for violation of the neutrality laws against individuals who had made plans in the United States for raids into Mexico. (For. Rel., 1908, p. 604.)

But successful cooperation with the Mexican Government was made difficult by the inability of the Government of the United States legally to arrest propagandists or forbid traffic in arms and ammunition, where there was no breach or no procurable evidence of a breach of the neutrality statutes.

The problem for both Governments was aggravated by a general antipathy in Mexico of Americans, largely caused by a special dislike of those Americans who, for business reasons, were coming into Mexico in steadily increasing numbers. Responded to in kind, this mutual border feeling was intensified by the attacks across the line. Out of such conditions started various local or State organizations of Americans, such as the Texas Rangers. These naturally attracted the fire of the bolder Mexican outlaws, and on July 31, 1910, border rancor was greatly inflamed by the killing of Ranger Lieut. Carnes and Constable West by a body of Mexicans who crossed the Rio Grande at San Benito, Tex., made an attack and escaped across the river into Mexico. Feeling ran high in Texas on this occasion, but was not expressed in reprisals until precipitated by the act of an alleged Mexican citizen, Antonio Rodriguez, who for the rape and murder of an American woman was burned alive at Rock Springs, Tex., in 1910. This caused in turn fresh reprisals by Mexicans, which were now directed not only against the persons of American citizens, but also against the United States Government as represented by consular residences, the flag, and the like. Demonstrations both peaceful and violent were reported from far within the interior of Mexico.

Meantime the prediction of the Antireelection Party that President Díaz would run again, in spite of what he had declared to Creelman, was realized. The President, who was 80 years old and had been President for 34 years, announced his candidacy for his eighth term, which would begin November 30, 1910, and last six years. He had selected for Vice President Don Ramón Corral, leader of the "Científicos" and thoroughly unpopular. Gen. Bernardo Reyes, governor of the State of Nuevo León, who had been minister

of war on President Díaz's staff, was reported to be opposed to the reelection of Vice President Corral, and many persons advocated that Gen. Reyes himself be elected Vice President. In the midst of the campaign Gen. Reyes went to Mexico City and, soon after, to Europe on a special military mission.

The opposition nominated Francisco I. Madero, of Monterrey, for President. Madero came from a very wealthy and very influential family, most of whom had always been staunch supporters of President Díaz, and, although they greatly respected their distinguished relative, many of the family openly declared in favor of Díaz. Francisco Madero had written a book, above referred to, which had had a wide circulation, and which emphasized the probability that a Corral administration would be even worse than the Díaz régime. It said:

> The nation can never separate the name of Señor Corral from the iniquitous Yaqui war. * * * He answers perfectly all the requirements that the President desires his successor to possess, and the nation must not hope anything from him but a prolongation of absolute power, with the fresh aggravations that he will have to employ in order to impose his authority (p. 262). The problem, therefore, is reduced to this: Which is the best for the nation, the continuation of the present absolutism or the introduction of democratic practices? (p. 292).

The book was well written and its author was also a fluent speaker. During the 1910 campaign he went about for months, urging the people to rise against the existing tyranny and fight with what weapons they could find for the reestablishment of constitutional government.

The election date was June 26, 1910. On June 5, in the midst of his campaign, Madero was arrested at Monterrey on a charge of having concealed a fugitive from justice—Roque Estrada, Madero's own secretary, and habitually in Madero's house. Madero was taken to San Luis Potosí, where he was convicted of sedition, held until after the elections were over, and then, through the efforts of friends, released on 8,000 pesos bail, with restriction, however, to the limits of San Luis Potosí, where he was kept under observation. (File No. 812.00/351.) Other Antireelectionists were similarly treated. Some escaped and fled to revolutionary centers in the United States, where their writings and other activities greatly emboldened the revolutionists. Two of these, Ricardo and Enrique Flores Magón, were indicted by the United States Federal grand jury for violating the neutrality laws; Ricardo was convicted and imprisoned; Enrique continued writing widely quoted articles. (File No. 812.00/350.)

The tasks of the United States Federal officers were greatly increased when, on October 6, 1910, Madero escaped from San Luis Potosí to San Antonio, Tex., general headquarters of the revolutionary junta (file No. 812.00/351), and was at once announced in the press as its president and leader of the revolution. (San Antonio Express, Oct. 11, 1910, file No. 812.00/352.) A few days later, in a manifesto addressed "To the American people," he declared that all he asked was "the hospitality which all free peoples have always accorded to those from other lands who strive for liberty." (File No. 812.00/353.)

Madero came prepared with a specific revolutionary program, which had long been maturing, known as "The Plan of San Luis

Potosí," in which the cause and purpose of the revolution are set forth.

Madero's Manifesto and the Plan of San Luis Potosí.

[Extracts—Translation.[1]]

Our beloved land has come to one of those historic moments when extreme sacrifices must be made for liberty and justice. * * * An intolerable tyranny oppresses us, with no alternative but a shameful peace based on might instead of right * * * obedient to the single will, or caprice of Gen. Porfirio Díaz, who in his long administration has shown his chief aim to be his own continuance in power at whatever cost. * * * The evil of such a government, under which organized expression of opinion is impossible, was greatly aggravated by the determination of Gen. Díaz to name his successor, and by his choice of Señor Ramón Corral as that successor the evil has now become unbearable. Accordingly many Mexicans, with no recognized political standing—for no man during these last 36 years could acquire it—have resolved to regain for the people their sovereignty.

We who have so resolved have organized, among others, the National Anti-reelectionist Party, whose slogan is "An honest ballot and no second term." The two principles comprised by this slogan are the only ones whose application can save the Republic from a dangerous extension of the dictatorship which grows daily more despotic and immoral.

The Mexican people have rallied to the standard of this party, sent their delegates to the national convention, which it shares with the Nationalist Democratic Party, and nominated Dr. Francisco Vázquez Gómez and me for Vice President and President. * * * My campaign was a triumphal march, for the magic words "An honest ballot and no reelection" electrified the people throughout the country and made them resolve to put those two principles into effect. The moment, therefore, came when Gen. Díaz perceived the situation and, realizing that he could not meet me to advantage in a lawful contest, put me in prison before the election, which was fraudulently conducted, violence, even to the filling of the jails with unoffending freemen, being employed to enforce the frauds.

The Mexican people protested against the illegality of that election, and in doing so employed, each in its proper turn, every recourse offered by the law of the land, going finally before Congress, hopeless as it was to do so; for the people well know that that unlawful body obeys implicitly the will of Gen. Díaz. * * * They knew, indeed, that in following me at all outrage awaited them; but nevertheless, for liberty's sake, they went with admirable stoicism to the polls, ready to face any affront.

It was necessary to take those fruitless steps—party organization, appearance at the polls, conduct of the election strictly within the prescribed procedure. By this orderly conduct we expected to show to the world that the Mexican people are able to use the instruments of democracy. They were, however, not allowed to use them; and they clearly show by their present attitude that they know I should have been elected if their electoral rights had been respected, and that they do not recognize the Government of Gen Díaz.

By virtue of this knowledge and attitude, by virtue of the national will, I hereby declare the recent elections illegal and the Republic, therefore, without a legitimate government. I hereby provisionally assume the Presidency of the Republic until the people shall have nominated, according to law, their governing officials. In order to do so, they will have to remove from power the audacious usurpers, and I should display a dishonorable weakness and a betrayal of them were I to fail to lead those that have trusted me and by force of arms compel Gen. Díaz to respect the will of the nation.

The present Government, although deriving from violence and fraud, will enjoy up to the 30th of November next a certain aspect of legality in the regard of foreign nations, since it has been tolerated by the Mexican people. But it is imperative that the new administration, deriving from the fraud of the old, shall be prevented from usurping and entering into power, or shall, at least, find most of the nation in arms against it.

Therefore I appoint 6 o'clock of Sunday night, the 20th of November next, as the time for an armed uprising, according to the following—

[1] González y Domenech. La Revolución y Sus Héroes, pp. 213–225.

PLAN.

1. The elections for President and Vice President of the Republic, Justices of the Federal Supreme Court, and Deputies and Senators, held in June and July of this year, to be declared void.

2. The present Government of Gen. Díaz to be ignored, and likewise ignored all the authorities whose power should derive from the people.

3. To avoid as far as possible the disorder inherent in all revolutionary movements, all laws are to be kept in force except those that manifestly would counteract the principles herein proclaimed; except also the laws and decrees that sanction the fiscal acts of the Díaz administration: *Provided*, That the obligations of that Government contracted with foreign Governments and companies before the 20th of next November are to be respected. * * * Proceedings whereby lands have been unlawfully seized are to be subject to review, and if found abusive of the law the lands are to be restored to the rightful owner, together with indemnities for damages suffered: *Provided*, That where, before the date hereof, lands thus seized have passed into the possession of a third party, the former rightful owner will receive indemnity only, to be paid by those for whose benefit the seizure was made.

4. Besides the constitution and existing laws, it is hereby declared that the principle of *no reelection* of President or Vice President of the Republic, governors of States, and presidents of municipalities is a part of the supreme law pending the appropriate amendment of the constitution.

5. I hereby assume the character of Provisional President of the United Mexican States, with the power to make war against the usurping Government of Gen. Díaz. As soon as the national capital and more than half of the States of the Federation are under the control of the people the Provisional President will call nation-wide special elections, to occur 30 days after the call, and will deliver his office to the President-elect as soon as the result of the election is known.

6. The Provisional President before surrendering his office to his duly elected successor will report to the Congress of the Union the use he shall have made thereof.

7. On and after November 20 next, 6 o'clock p. m., all citizens of the Republic will take up arms to oust from power the present authorities. * * *

8. When the authorities make resistance, they are to be compelled by force of arms to respect the popular will, but in such cases the laws of war are to be rigorously observed. Especial attention is directed to the prohibition of the use of expansive bullets and the execution of prisoners. Attention is also called to the duty of every Mexican to respect the persons and property of foreigners.

9. Such authorities as resist the materialization of this Plan will be imprisoned and held for trial before the courts upon the termination of the revolution. * * *

An honest ballot. No second term.

FRANCISCO I. MADERO.

SAN LUIS POTOSÍ, *October 5, 1910.*

While revolutionary preparations for the execution of this plan were in progress, legal steps were also being taken by the Antireelectionist Party to have the June elections set aside as fraudulent. The party's electoral executive committee collected evidence of 150 electoral frauds, which was presented to the courts in due form; the courts, however, refused a hearing to the plaintiffs, who appealed to the National Congress for a new election, but Congress would not entertain the petition and recognized Díaz and Corral as duly elected. The opposition was finally convinced that the only thing remaining for the dissatisfied was rebellion.

The general aspect of Mexican affairs at this period, and their effect on American citizens in Mexico, is sketched by the American ambassador, Henry Lane Wilson, in a long dispatch of October 31, 1910. (File No. 812.00/355.) It begins with a description of the Mexican constitution and its practical application, and continues

with observations on the personality of President Díaz and the cause of opposition to his Government. Among these the ambassador mentions concentration of ownership of land and other wealth; objectionable forms of taxation; debasement of the lower classes through intemperance and lack of education; growth in the middle class of interest in public affairs; corrupt state of the judiciary; and pronounced anti-American feeling. Of the last two items the ambassador says in part:

> By far the greatest evil, and the greatest cause of complaint in the Republic, is the lame, incompetent, and corrupt judiciary. Naturally, a weak and debaunched judiciary falls as an especial burden upon the people of the country in which it exists; but, having in mind our vast investments in this country, the constant inflow of American capital, and the steady increase of American immigration, it is of prime importance for us to know in just what manner the courts are constituted, the influences that surround them, their methods of procedure, and the character of their personnel. Since I have taken charge of this post I have been obliged, in the protection of American interests, to come constantly in contact not only with the judiciary of the Federal district and the supreme court but with that of the States of the Republic, and I am bound to say that it has only been by the exercise of the utmost vigilance and by pressure upon the President, upon the foreign office, by unofficial communications to governors, and by almost daily visits by a representative to the judges here in Mexico, that I have been able to prevent the grossest injustice and the rankest outrages to persons and property of American citizens. I have thought, and continue to think, that in a country where such peculiar conditions exist there is no refuge for an American citizen, whose clear and just rights are being taken away from him, except recourse to the power and influence of his Government through its diplomatic representative. I am especially anxious that you shall understand this part of the work which I have to do here, because I regard it as the greatest source of danger in the relation of the two countries. * * * It is a common form of thought in the Mexican mind that the Americans are getting the best of everything in the country, and that they should be mulcted whenever possible, through the forms of law or otherwise.
>
> Another serious and dangerous phase of the situation here is the pronounced anti-American feeling which exists throughout the Republic and is not confined to any class, though naturally finding its most violent expression where the restraints of custom, courtesy, and education are weakest. This sentiment of hostility is partially due to the memories of the war of 1846, partially to race antipathy, but in a larger measure to resentment of American commercial aggression and envy of American property and thrift. It finds its expression in two ways: First, in attacks upon American property interests by either fictitious legal proceedings or direct confiscation, through the collusion of corrupt officials, and sometimes not even cloaked under forms of law [cases cited]; second, in attacks on personal rights, frequently without process of law. Cases of this kind are so frequent as to be almost of daily occurrence. * * * Usually the action of the embassy brings some results, but the constant recurrence of the grossest outrages is arousing in the minds of American colonists in Mexico a feeling of deep resentment, which may eventually bring unhappy results.

Demonstrations both pacific and violent too numerous to mention in full occurred during the ensuing months. On November 10, 1911, at Ciudad Porfirio Díaz (opposite Eagle Pass, Tex.) an attack was made on the consulate, for which official apology was immediately made. (File No. 812.00/386.) On November 12 there was a demonstration without violence at Chihuahua. (File No. 812.00/394.) A boycott on all American goods was started at San Luis Potosí. (File No. 812.00/396.) Various opinions were held in both countries as to the causes of the anti-American feeling, but it was clear to all that the mere existence of the feeling was one of the strongest assets of

the revolution. Attacks upon consulates, insults to the flag, assaults upon the persons of American citizens and destruction of their property were acts calculated to embarrass the Mexican Government, since it could do no less than suppress such demonstrations. These suppressive measures were interpreted to the people as clear evidence of the close understanding between Científico and Gringo; and such arguments multiplied volunteers for the revolutionary army.

But the immediate cause of the November, 1910, demonstrations was the above-mentioned burning alive of a Mexican at Rock Springs, Tex. The following correspondence begins while the first effect of it is taking place:

File No. 812.00/385.

The American Ambassador to the Secretary of State.

[Extract.]

No. 241.] AMERICAN EMBASSY,
Mexico, November 10, 1910.

SIR: On November 5, El Debate, a weekly newspaper controlled by persons closely associated with the Government, published an editorial of a most violent and inflammatory character in connection with the burning of a Mexican citizen, Antonio Rodríguez, for the murder of an American woman at Rock Springs, Tex. The evident purpose of this editorial was to excite public opinion and to incite the populace to acts of violence; and it had that result, as agitation and unrest were immediately evident in the cafés and public places. This agitation found its first expression in the assembling of a mob composed largely of university students, small shopmen and the better class of artisans on the night of Tuesday, the 8th.

After a number of inflammatory speeches and the passage of some resolutions, which have not found their way into print, the mob, amounting to more than 1,000 persons, marched to the office of the Mexican Herald (an American-owned daily) and amid cries of "Down with the Gringos" and "Death to the Yankees," attacked the Herald building with stones, breaking a number of windows and threatening the safety of the Herald employees. [Other similar attacks.]

During all this time the police remained absolutely inactive; at the conclusion of the demonstrations some arrests were made, but those arrested were liberated without exception a few hours afterward.

On the morning following * * * a mob of 5,000, further inflamed by an article in El Diario del Hogar (anti-Government), assembled in front of the municipal palace and after a number of inflammatory speeches marched in tumultuous order up San Francisco Street. * * * No less than a dozen American citizens were insulted and maltreated, some slightly, some severely * * *.

In the afternoon of the same day I addressed a note[1] to the foreign office, and have to-day received a reply[2] which seems to indicate the present disposition of that department.

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[1] Inclosure 1. [2] Inclosure 2.

Not fully content with this action, and anticipating that further outrages might occur in the evening, I endeavored to communicate with Mr. Creel for the purpose of impressing him with the seriousness of the situation. I was not able to find Mr. Creel, but Mr. Gamboa the subsecretary came to the embassy at my request and I talked very clearly and emphatically to him about the inertness of the authorities, the strong feeling of resentment in the American colony, and the danger of allowing matters to take their course, apparently with the acquiescence, if not with the sympathy, of the guardians of law and order * * *.

Later in the night the mob assumed dangerous proportions and malignant character, resisting the police and committing further acts of vandalism. To-day I visited Mr. Creel and he informed me that the Government proposed, from now on, to take the most vigorous measures not only in the repression of disorders but in seeking out and punishing the authors and instigators of the riots, including the publishers who by their violent and incendiary articles are in a large measure responsible for the events which have occurred.

Last night I discovered that many members of the American colony, resenting the outrages to which they and their families had been subjected, were in an ugly mood, and in the absence of police protection were preparing to protect themselves. Anticipating that unfortunate incidents might result from this feeling of resentment, I sent for a reporter of the Mexican Herald and gave an interview[1] which was intended to allay the feeling of hostility which was rapidly fomenting in the minds of the unprotected and abused American citizens, and at the same time to serve as a note of warning to the Mexican public. I am pleased to say that the interview had the desired effect as it not only caused the abandonment of a public meeting of protest of the American colony but also caused the formation of an active Mexican public opinion in condemnation of the demonstrations.

I have [etc.], HENRY LANE WILSON.

[Inclosure 1.]

The American Ambassador to the Minister for Foreign Affairs.

No. 519.] AMERICAN EMBASSY,
Mexico, November 9, 1910.

MR. MINISTER: It is my painful duty to call your attention to the circumstances attending the disgraceful rioting which has occurred in the City of Mexico, beginning last evening with the stoning of the office of the Mexican Herald and culminating this morning about noon with an outrage to an American flag which was displayed from the front of the Imperial Restaurant in the Calle San Francisco.

The cause of these riots is said to be the burning of a Mexican, Antonio Rodríguez, for the crime of rape followed by murder of an American woman at Rock Springs, Tex. The perpetrators were outside the law and criminals in the eyes of the law, and their acts are in no way representative of the Government of the United States or of the people thereof.

The assembling of the mob in the streets near the municipal palace was known to this embassy before the insults mentioned occurred, and it seems singular that the municipal authorities should not have been similarly well informed and thus have prevented the unseemly outrage to the flag of a friendly nation. From trustworthy sources I learn that no arrests were made even when the

[1] Inclosure 3.

disorder was at its height and that bystanders rather abetted than discouraged the mob.

I deem it my duty to advise your excellency that a continuance of this rioting is anticipated this evening.

I anticipate that your excellency's Government will immediately take the precaution to prevent a recurrence of insults to the American flag, and that those guilty of the vandalism of this morning may be sought out and punished. In the meantime I am with the greatest regret communicating the events which are occurring to the Government at Washington.

I avail [etc.],

HENRY LANE WILSON.

[Inclosure 2.]

The Minister for Foreign Affairs to the American Ambassador.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, November 9, 1910.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of your excellency's note of this date, bringing to my attention that a mob, after having last night stoned the offices of the Mexican Herald, to-day at noon insulted an American flag which was hanging over the door of La Imperial Restaurant on San Francisco Street of this city.

As very properly stated by your excellency, the disturbance by such mob was due to the indignation caused among the people by the report that a Mexican citizen, presumably guilty of a crime, was burnt alive by a mob in the adjoining State of Texas before he had first been brought to any sort of trial.

The Government of Mexico deplores and condemns the acts of violence committed in this city, and I can assure your excellency that the authorities will proceed without delay to ascertain who are the persons guilty of the criminal acts of to-day, so that they may be duly punished. I trust that similar action will be taken by the authorities of the Government which you so worthily represent against those who are guilty of burning alive in Texas the Mexican Antonio García.

The governor of the Federal district has just informed me that 12 of those who appear to be guilty were arrested and other arrests were made this afternoon.

I avail [etc.]

ENRIQUE C. CREEL.

[Inclosure 3.]

Statement of the American ambassador published in the Mexican Herald of November 10, 1910.

[Translation.]

When interviewed last night the American ambassador, Henry Lane Wilson made the following statement:

I am deeply shocked at the outrages committed against Americans in Mexico City in an anti-American spirit. Hotels and business houses have been attacked and damage done; American men, women, and children insulted on the streets for no other reason except blind and savage resentment against the acts of a mob in the State of Texas. The spirit that animates the mob in the City of Mexico seems to be similar to that of the miscreants who, outside of law, burnt a Mexican citizen for murdering an American woman.

For an outrage against a Mexican citizen neither the American Government nor the American people are responsible, nor do they sympathize in the least degree with that spirit of barbarism. Proper redress for outrages committed against citizens of any country residing in another country is obtained through diplomatic channels, and not by acts of vandalism and outrages to persons and property, which place the perpetrators on a level with those against whose crimes they are protesting. The mob which has infested the streets of Mexico for the last day and a half has perhaps inflicted some injury on American citizens in Mexico, but it has inflicted far greater damage on the reputation of Mexico throughout the world as a civilized, peace-loving, and progressive power. It is to be regretted that the police authorities have, during the occurrence of these events, shown themselves wantonly neglectful of their duties, and have stood idly by while the American flag was outraged and American persons and property were attacked.

Neither the Mexican Government, which is always dignified, patriotic, and quick to respond to just complaints, nor the better class of Mexican people can be held respon-

sible for the outrages which have been committed, and it can not be doubted for a moment that the representations which have been made by this embassy will receive sympathetic consideration and procure prompt action. The unfortunate affairs which have occurred have been duly reported to Washington, and it may be relied upon that the action taken there, while just and conceived in the spirit that should animate a friendly nation, will leave nothing undone which should be done. In the meantime I beg to advise all American citizens to go quietly about their business and refrain as far as self-respect will permit them from such words or deeds of resentment as would place them on the same plane with the violators of the law.

The purpose of this interview is to allay agitation and to advise the American colony, of whom there are 10,000 in the City of Mexico, that they should refrain from acts which might further embarrass a situation already difficult.

File No. 812.00/362.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
November 11, 1910.

EXCELLENCY: Referring to my two previous notes[1] to your excellency and to our personal conference of this date, I have the honor to inform you that I have just received a telegram from the President,[2] in which he directs me to communicate through your excellency a personal message from him to the President of the Republic of Mexico; that the Government of the United States has the utmost confidence in the desire of President Díaz to allay all troubles between the two countries and in his determination to suppress all unlawful violence or insults to Americans in Mexico. The President adds that he will use all efforts to punish those guilty of the crime recently committed against Antonio Rodríguez in Texas.

Accept [etc.],

P. C. KNOX.

File No. 812.00/450.

The American Ambassador to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Mexico, November 12, 1910.

Mr. MINISTER: It is a source of regret to me to find myself compelled to call your excellency's attention thus officially to conditions prevailing in Guadalajara which are a menace to the life and property of Americans residing there. Yesterday afternoon I had the honor to say to your excellency that anti-American demonstrations had taken place, and that I had wholly trustworthy information to the effect that rioting would again break out last night. I indicated the serious results that would follow from such a state of affairs. Notwithstanding this warning, to which I do not doubt your excellency immediately responded, a mob was permitted to gather, and, in an attack upon the home of Mr. Carothers, became so violent that he was obliged to use firearms in protecting his life and property. He shot into the mob, killing one person and wounding another.

I feel therefore that I must again most urgently caution your excellency as to the state of affairs at Guadalajara, and insist that every possible step be taken to prevent a recrudescence of the lawlessness which resulted in the deplorable attack upon an unoffending Ameri-

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[1] Not printed.

[2] Who was aboard the U. S. S. *Tennessee*, at sea.

can citizen and the consequently unavoidable but useless death of last night.

I avail [etc.],

HENRY LANE WILSON.

File No. 812.00/450.

The Minister for Foreign Affairs to the American Ambassador.

[Translation.]

FOREIGN OFFICE,
Mexico, November 12, 1910.

Mr. AMBASSADOR: I have had the honor to receive your excellency's note of to-day's date, in which you call my attention to the events which have recently occurred in Guadalajara. In reply, I take pleasure in informing your excellency that the Government profoundly regrets such lamentable happenings, and with a view to preventing a repetition of the disorders has issued all necessary orders, as your excellency was made aware by the note[1] which I had the pleasure of sending you this morning, together with copies of various telegrams, among them being one addressed to the governor of the State of Jalisco. That officer replies in terms of which your excellency may take cognizance by consulting the copy of a telegram from him which I have the honor to send you herewith. Notwithstanding this, I have again cautioned the said governor to take all the precautions possible.

I avail [etc.],

ENRIQUE C. CREEL.

File No. 311.122 R61/6.

The Mexican Ambassador to the Secretary of State.

MEXICAN EMBASSY,
Washington, November 13, 1910.

EXCELLENCY: I have already had the honor to acknowledge[1] your excellency's note of the 11th [etc.]. I now have the honor to present through your excellency the thanks of President Díaz to President Taft for his promise thoroughly to investigate the incident of the burning at the stake of the Mexican Antonio Rodríguez, in Texas.

Accept [etc.],

T. L. DE LA BARRA.

File No. 812.00/379.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, November 14, 1910.

The President stated in an interview that he considered the recent anti-American demonstrations were simply a convenient cloak for Mexican revolutionists, who are active in every part of the Republic. If any manifestations occur in the future they will be mercilessly

[1] Not printed.

suppressed. He would be very grateful to the Government of the United States if steps were taken to prevent the unlawful acts of the revolutionists who are purchasing arms and ammunition in the United States.

File No. 812.00/419A.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 15, 1910.

Regarding the statement of the President of Mexico, transmitted in your telegram of November 14, that the revolutionists are purchasing arms in the United States and his request that steps be taken to prevent it, these have been communicated to the Department of Justice for its action.

HALE.

File No. 812.00/450.

The American Ambassador to the Secretary of State.

[Extract.]

No. 245.] AMERICAN EMBASSY,
Mexico, November 15, 1910.

SIR: [The first part of this despatch relates the dispersal by the police of public meetings, November 12; the closing of certain places of amusement, professional schools and the university; instructions given to consuls; anonymous letters received and handed to chief of police; letters received from American citizens approving attitude of embassy and replies thereto.]

Yesterday I visited the President for the purpose of enlisting his cooperation in modifying the tone of the more violent portion of the press, notably El Pais and El Diario del Hogar, and following the discussion of this matter had a most interesting and profitable conversation with him, the substance of which is transmitted herewith in the form of a memorandum.

I refrain from an attempt to analyze the prevailing situation here, because at this moment any opinion might be misleading. I confine myself to referring to my special and confidential despatch to Mr. Knox of the 31st of October last, which in its conclusions anticipated in a very large measure the events which have recently occurred.

I have [etc.],

HENRY LANE WILSON.

[Inclosure—Memorandum—Extract.]

Having brought to the attention of the President the great source of annoyance caused by the continued publication in El Pais of articles of a violent character, commenting on the recent disturbances brought about by the lynching of Antonio Rodríguez, and asked him to use his good offices toward suppressing these articles, the President * * * said that he did not expect any further demonstrations; that the affair was now practically ended, and that for this reason he felt that any publications which insist upon keeping

the matter before the public eye ought to be strongly reprimanded and forced to discontinue a policy with which the Government is not in accord. He further stated that the real cause of the disturbance was not the anti-American sentiments of the people, but that a number of politicians adverse to the Government had taken advantage of the unfortunate affair which happened in Texas to excite young students and men of the laboring classes in order to discredit the Government by such disturbances as occurred here during the past week. He said that some of the leaders of the anti-Government party were the first to mingle with the students and called their attention to the Texas incident. That Madero and Flores Magón are openly buying arms and ammunition in the United States without being in the least molested by the authorities, and that unless the American Government prevents these men from making an open revolutionary propaganda against the Mexican Government and accumulation of arms and ammunition a more serious disturbance might be expected. * * * The President urged the ambassador to cooperate with him in securing the good offices of the American Government toward preventing an unlawful propaganda against his Government in the United States. He said * * * that Ambassador De la Barra had instructions from him to bring all of the above matters to the attention of President Taft as soon as he [President Taft] returns from Panama, but that he would very much appreciate it if the ambassador here would also render him his assistance toward securing such action as the American Government may be willing to take in the matter.

File No. 812.00/516.

The President of Mexico to the American Ambassador.

[Translation.]

CHAPULTEPEC, MEXICO, *November 15, 1910.*

MY DEAR MR. AMBASSADOR: I have the pleasure to reply to your excellency's kind letter of the 12th instant,[1] relative to the telegram which His Excellency President Taft addressed to Secretary Knox expressing his confidence in the ability of the Mexican Government to avoid all difficulty between the two countries and dictate measures to maintain order, extending protection to American citizens residing in this country.

I have been greatly pleased by the high and just opinion of the President of the United States and feel honored by his confidence, and I have already had the pleasure to make my reply through the department for foreign affairs, expressing my sincere appreciation, as well as my profound regret for the demonstrations of hostility against Americans, and giving the assurance that the Mexican Government will dictate all necessary provisions to maintain order and prevent all acts of hostility against a friendly nation.

It affords me pleasure to give your excellency the same assurance of friendship, and that the great majority of the Mexican people as well as its Government maintain cordial and good relations of friendship for the people and Government of the United States, and that only a few political agitators have taken advantage of this incident and acted in a violent manner, inciting the students who, under the impression made on them by the crime committed in Texas against the Mexican Antonio Rodríguez, acted imprudently pursuant to evil suggestions.

I am, my dear Mr. Ambassador, your friend and obedient servant,

PORFIRIO DÍAZ.

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[1] Not printed.

File No. 812.00/447.

The American Ambassador to the Secretary of State.

[Extract.]

No. 249. AMERICAN EMBASSY,
Mexico, November 16, 1910.

SIR: As supplementary to the memorandum I transmitted to the Department with my despatch No. 245, of the 15th instant, I have the honor to inclose to the Department herewith a copy of a memorandum recording a conversation I recently [Nov. 14] had with President Díaz regarding in the main the recent anti-American manifestations and their real significance, which the President considers political * * * [the omission is irrelevant].

I have [etc.],

HENRY LANE WILSON.

[Inclosure—Memorandum—Extract.]

To-day at noon I called upon the President for the purpose of conferring with him upon the recent anti-American disturbances throughout the country. * * * He immediately opened the question by saying that he felt confident that the agitation had been brought about by persons antagonistic to the Government; that the students had been used as a tool to discredit the Government and that the crime committed in Rock Springs, Tex., had served as a pretext to arouse the young men into unlawful action. He said that this belief of his was corroborated by the discovery made yesterday by the police, to the effect that a certain commercial house had sold to an enemy of the Government something like 100 rifles; * * * that a thorough search having been made in the house of the purchaser, the police discovered in his possession three appointments, signed by Francisco Madero, as President *ad interim* and Commander of the Revolutionary Army of Mexico, in favor of men known to be adverse to the Government.

The President also informed me that he had received information by wire that the consul at San Antonio, Tex., had complained to the American authorities about the purchase made by the followers of Madero of a certain number of arms, which soon after this complaint were seized by said authorities. He considers this act as a breach of the laws of neutrality and would much appreciate such energetic action as the American Government may take to stop this unlawful practice of men who seek refuge in the United States for no other purpose than to conduct a relentless revolutionary campaign against the Government of a friendly nation. The President said that he had always looked with satisfaction upon the friendly relations of Mexico and the United States, and that there is nothing he will not do to bring the countries to a still closer understanding.

He said that he had given the press strict orders to stop any further comments on the anti-American demonstrations, and that one of the journals which had disobeyed these instructions, namely, El Debate, had been suppressed. I asked him why it was, then, that the more serious journals did not come right out in terms and denounce the so-called anti-American movement as a disturbance caused for political motives and not because of the lynching of a man in Texas. He said that such papers as the Government could control would do so in a day or two.

He said that the evidence relating to the revolutionary campaign conducted by Madero and Flores Magón had been sent to Ambassador de la Barra, in Washington, but that he would much appreciate it if I would also bring these facts to the attention of the Department, which I, of course, promised him that I would do.

File No. 812.00/420.

The Mexican Ambassador to the Secretary of State.

[Memorandum.]

MEXICAN EMBASSY,
November 16, 1910.

The Government of Mexico has received reliable information to the effect that yesterday the Federal authorities at San Antonio, Tex., found 100 carbines of .45 caliber, with 5,000 cartridges for the same, in the possession of an American friend of Madero. My Government has also learned that the said authorities had already requested instructions to seize these arms. The American maintains that he bought them for legitimate commerce.

The Mexican ambassador hastens very respectfully to communicate these reports to the Department of State so that the case may be investigated, the responsibility fixed where it belongs, and steps be taken to prevent the commission of acts that may be prejudicial to the maintenance of peace in Mexico.

File No. 812.00/421.

[Memorandum.]

MEXICAN EMBASSY,
November 16, 1910.

The Government of Mexico has in its possession documents signed by Francisco I. Madero, in which he calls himself Provisional President of the Republic, appoints as governor of Tlaxcala the engineer Manuel Uiquiti, and writes to the capitalist José M. Ortiz asking for a loan of money. The Government has also a proclamation addressed by Madero to the National Army inviting it to make a declaration of its sentiments. In the capital of the Republic 50 rifles purchased by an agent of Madero have been collected and a search is being made for other stores of arms, which it is known have been purchased by the same agent. The Government offers to transmit to this embassy copies of said documents which will in due time be presented to the Department.

The ambassador limits himself to making this known to the Department of State, confident that the American Government in a spirit of justice and in further manifestation of its friendship toward Mexico, will take the steps necessary to prevent in its territory the commission of acts tending to disturb the peace of Mexico, and is likewise certain that those guilty of the violation of the laws of the United States will be duly punished.

File No. 812.00/421.

The Secretary of State to the Mexican Ambassador.

[Memorandum.]

DEPARTMENT OF STATE,
Washington, November 16, 1910.

The Department of State is in receipt of two memoranda of the Embassy of Mexico, both of to-day's date, stating [etc.].

The Department of State hastens to inform the ambassador of Mexico that the contents of the above memoranda have already been communicated to the Department of Justice with the recommendations for immediate action required by the urgency of the case.

File No. 812.00/516.

The American Ambassador to the President of Mexico.

MEXICO, *November 18, 1910.*

MY DEAR MR. PRESIDENT: Referring to the conversation I had with you this morning I have the honor to request you, if it lies within your power, to bring to an end the present stand of the newspaper El Pais, on account of the publication of articles of an incendiary and violent character, the object of which is to disturb the happy relations existing between the United States and Mexico.

I beg to accompany this letter with a clipping from El Pais of yesterday morning,[1] which will give you an idea of the character of statements made by that paper.

I also beg to call your attention to the fact that the Diario Del Hogar, which was prohibited from being published by an order of court, is still appearing and is publishing extremely dangerous articles. I beg of you, Mr. President, to allow me to request that the same energetic action be taken with this newspaper as is taken with El Pais.

Sincerely, your friend [etc.],

HENRY LANE WILSON.

File No. 812.00/388.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, November 18, 1910.

The Mexican Government has, since the recent anti-American rioting, collected evidences of an attempt at revolutionary outbreak, is seizing arms and ammunition and is making numerous arrests at various points of the Republic, over a large part of which the conspiracy seems to be spread; but it lacks coherence and the Government will easily suppress it. Madero seems to be acting with Magón, and numerous commissions have been found which were signed by

[1] Not printed.

Madero. He is reported to be in San Antonio, whence he is shipping arms and ammunition to his adherents in Mexico. The Mexican Government would greatly appreciate it if these men could be prosecuted for attempts to subvert the Government of a friendly power from American soil.

File No. 812.00/427.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, *November 19, 1910.*

In reply to your telegram of the 18th, it seems impossible for this Government to act except for violations of the neutrality or penal laws of the United States, but in case of such violation prompt action will follow, now as heretofore, directions to that end having already been sent by the Department of Justice to its agents in Texas, who will watch developments carefully and prosecute vigorously any violators of the law. Such agents report inability thus far, to secure evidence of violation of the neutrality statutes. The ambassador is instructed to urge the Mexican Government to report all information they may have to this Government, who will fully cooperate with them.

ADEE.

File No. 812.00/476.

The Mexican Ambassador to the Secretary of State.

[Translation—Memorandum.]

MEXICAN EMBASSY,
Washington, November 19, 1910.

The Government of Mexico hears that bands of rebels are being recruited at various points on the Texas frontier, the following being mentioned as dangerous: Naco, El Paso, Presidio, Boquilla, and Eagle Pass.

The ambassador of Mexico hastens to bring this news to the Department of State so that the American Government, acting in its habitual spirit of justice, may be pleased to order the guarding of its frontier by mobilizing the necessary forces, in order to prevent the gathering of rebels and the importation of arms into Mexico, the passing of armed bands or suspected persons in either direction across the boundary, or commission of other acts that might disturb the domestic peace of Mexico.

File No. 812.00/476.

The Secretary of State to the Mexican Ambassador.

[Memorandum.]

DEPARTMENT OF STATE,
Washington, November 19, 1910.

The Department of State acknowledges the receipt of the confidential memorandum handed it to-day by the Mexican ambassador relative to the recruiting [etc.].

The Department of State begs to advise the ambassador of Mexico that a translation of his memorandum has been communicated to the Secretary of War and to the Attorney General for such action as they may deem appropriate.

File No. 812.00/473 B.

The American Consul at Ciudad Porfirio Diaz to the Secretary of State.

[Telegram—Paraphrase.]

EAGLE PASS, *November 22, 1910.*

Madero reported to have crossed the Rio Grande November 20 about opposite Guerrero, which the revolutionists captured same day.

ELLSWORTH.

File No. 812.00/454.

The Commanding General, Department of Texas, to The Adjutant General.

[Telegram.]

SAN ANTONIO, *November 23, 1910.*

Situation on border much exaggerated in papers. Discreet officers now at El Paso, Del Rio, Eagle Pass, and Laredo have instructions to report by telephone or telegram. There is a decided impression current among people who are conversant with the situation in Mexico that the demonstrations along border are merely to draw attention of Mexican Government away from real points of danger, which they claim will be in the more settled centers of population.

HOYT,
Commanding.

File No. 812.00/461.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *November 23, 1910.*

The opinion quoted from the telegram of the commanding general is erroneous. The real point of danger is on the border, because if the revolutionists should gain a substantial victory there it would greatly endanger the Mexican Government, as it would release expression of the general dissatisfaction, which needs very little encouragement at best.

The Government complains bitterly of the Associated Press representatives on the border.

Revolutionists are crossing to Mexico from Texas and Arizona, and the consul at Chihuahua reports one American killed and one injured at Parral, where fighting continues. A thousand troops have been sent, and situation probably improving. A complete but armed peace, especially in the principal towns of central and southern Mexico.

WILSON.

File No. 812.00/511.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

MEXICAN EMBASSY,
Washington, November 23, 1910.

The Government of Mexico has been informed that Francisco I. Madero was in El Paso, Tex., and that from there he is on the way to Los Angeles, Cal.

It has also been informed that an American engineer, who claims to have been appointed colonel by Madero, left St. Louis, Mo., the 21st instant with 14 American recruits, who, on their way to Mexico via Del Rio, Tex., were to be joined by 100 others.

The ambassador of Mexico hastens respectfully to transmit this news to the Department of State, in the certainty that the American Government, acting in the spirit of justice that always animates it, will exercise the necessary vigilance by arresting the Mexican agitators who, in violation of the laws of neutrality, have remained up to now completely at liberty within the territory of the Union; and that it will also prevent the above-mentioned recruiting of Americans, and their crossing the frontier.

File No. 812.00/516.

The Minister for Foreign Affairs to the American Ambassador.

MEXICO, *November 24, 1910.*

MY DEAR MR. WILSON: The President of the Republic has referred to me the matter mentioned in your excellency's letter of the 18th instant, namely, the exaggerated anti-American articles published by a paper in this city. I have taken steps to suppress such articles, as unjust and unpatriotic, and your excellency has doubtless observed that such articles have ceased to appear in the paper referred to.

I highly appreciate the interest your excellency is taking in keeping the relations between Mexico and the United States as cordial and friendly as ever, and I assure you that such is the feeling of the President, and the spirit of the international policy confided to me.

I avail [etc.],

ENRIQUE C. CREEL.

File No. 812.00/512.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

The Government of Mexico has been informed that Antonio Rincon, Librado Rivera, Ricardo Flores Magón, Praxedis G. Guerrero, Aurelio Figueroa, Emilio Campo, and Jesus M. Gonzalez. who have been inciting revolutions in their periodical Regeneracion, are preparing in Los Angeles aid for the revolutionists in Mexico. The embassy has therefore been instructed to inform the Department of State of this violation of the neutrality laws.

WASHINGTON, *November 25, 1910.*

[Memorandum.]

The Government of Mexico knows that the agitator Madero is within the territory of the United States, and since he has clearly violated the neutrality laws the ambassador of Mexico takes the liberty of informing the Department of State of his presence, with the assurance that the American Government will afford new proof of its respect for law and its friendship for Mexico by ordering the arrest of said person.

MEXICAN EMBASSY,
Washington, November 25, 1910.

File No. 812.00/497.

MEXICAN EMBASSY,
Washington, November 25, 1910.

EXCELLENCY: I have the honor, under special instructions received by telegraph from the ministry for foreign relations, to say to your excellency that the Government of Mexico has noted with the greatest satisfaction that the Government of the United States, inspired by its lofty sense of justice and by its friendship for Mexico, has given orders for the suppression of all violation of the neutrality laws which the disturbers of public peace in Mexico have infringed here.

Accept [etc.],

F. L. DE LA BARRA.

File No. 812.00/517.

The American Ambassador to the Secretary of State.

No. 272.] AMERICAN EMBASSY,
Mexico, November 26, 1910.

SIR: As supplementary to telegrams of November 18 [and others subsequent], I have the honor to call the attention of the Department to the following points in connection with the recent revolutionary outbreaks in Mexico:

First. That the movement, while apparently unorganized and without responsible leadership, yet ramified throughout the Republic and was remarkable for its intensity and bitterness, showing deep-seated antipathy and antagonism to the Government.

Second. That while the manifestants were usually drawn from the so-called lower middle class of the country, their sentiments pervade, to a very great extent, the upper and lower classes, neither of which participated to any great extent in the recent demonstrations, though openly sympathizing with them.

Third. The deep apprehension and nervousness in governmental circles and the difficulty experienced in the earlier stages of the attempted revolution in dealing with an unorganized and leaderless movement.

Fourth. The rigid censorship exercised over the local telegraph lines, suggesting the possibility of occurrences and difficulties which it was not desirable to reveal to the public eye.

In this city—and I am informed also in other important centers—the expressions of sympathy and approval of the revolutionary movement were almost universal among all classes of people, and they were not voiced quietly, but openly, aggressively and in all public places.

There is a deep animosity on all hands to Vice President Corral and to the "Cientifico" group which surrounds the President, and in my opinion it is only respect for and fear of the President which at this time restrains a formidable movement. The lack of intelligent leadership and organization enabled the Government to suppress the revolution, but the cause has not been removed and the state of affairs which would be produced by an organized movement under a popular and highly esteemed leader is one which should be a matter for serious consideration. During the recent disturbances in the north, the danger did not result from the strength or the respectability of the movement, but from the circumstance that a few successes by the revolutionists would have brought about a serious and active movement in all the great centers against the present Government.

I have, etc.,

HENRY LANE WILSON.

File No. 812.00/499.

The Mexican Ambassador to the Secretary of State.[1]

[Translation.]

No. 362.] MEXICAN EMBASSY,
Washington, November 28, 1910.

EXCELLENCY: By telegram received the 26th instant from the ministry for foreign affairs I am informed that two persons, named Abraham González and Perfecto Lomelí, who were active agents of Francisco I. Madero in the revolt started in Chihuahua, are now in Presidio, Tex., where they continue stirring up trouble and consequently violating the neutrality laws of the United States.

Therefore my Government would be glad if the competent authorities of the United States would arrest these men or at least keep them under strict surveillance.

Accept [etc.],

T. L. DE LA BARRA.

File No. 812.00/511.

The Secretary of State to the Mexican Ambassador.

[Memorandum.]

DEPARTMENT OF STATE,
Washington, November 29, 1910.

The Department of State acknowledges receipt of the memorandum of his excellency the Mexican ambassador [of Nov. 23], concerning the movements of Francisco I. Madero and stating that the Government of Mexico had been informed that an American engineer [etc.].

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[1] This note was referred Dec. 1 to the Department of Justice, and by that department to the U. S. Attorney for the Western District of Texas. (812.00/540.)

The matter was immediately brought to the attention of the Departments of War and Justice for appropriate action.

The Government of the United States must however express its dissent from the conclusion which your excellency seems to reach, that the persons named by your excellency have been "up to now" operating in the United States "in violation of the laws of neutrality." As your excellency has already been formally advised, the proper officers of the Government of the United States stand ready to institute proceedings against all violations, not only of general international obligations regarding neutrality, but also of the stringent rules prescribed by the statutes of the United States regarding the conduct of American citizens and others, resident within the United States, toward countries or peoples with which the Government of the United States is at peace; and these Federal officers, as has been indicated to your excellency's Government, await merely the production of evidence in order to set the judicial machinery in motion, for the purpose of correcting any violation either of the internal rules of neutrality or of the statutes of the United States. The Department also begs to suggest for your excellency's consideration the fact that the Federal officers of this Government have thus far been most energetic in rendering assistance to the officers of the Government of Mexico, in the matter of preventing hostile operations on this side of our mutual boundary, and that but for this full, hearty and energetic action of the Federal officers of the Departments of both War and Justice, it is not improbable that the situation along the frontier might to-day be far more serious.

File No. 812.00/512.

[Memorandum; in reply to the first of those of November 25.]

DEPARTMENT OF STATE,
Washington, November 29, 1910.

The Department of State is in receipt of the memorandum of his excellency the Mexican ambassador in which he advises [etc.].

This memorandum has been communicated to the Department of Justice for such action as it may deem appropriate.

The department in this connection desires to invite the attention of his excellency the Mexican ambassador to the closing portion of its memorandum of this date regarding the proper procedure in case the Mexican Government is in possession of evidence showing that the neutrality laws of the United States have been violated.

[Memorandum; in reply to the second of November 25.]

WASHINGTON, *November 29, 1910.*

The Department of State is in receipt of the memorandum of his excellency the Mexican ambassador, dated November 25, 1910, in which he advises, [etc.].

A translation of this memorandum has been communicated to the Department of Justice [and so on verbatim as in the above].

File No. 812.00/385.

The Secretary of State to the American Ambassador.

No. 152.] DEPARTMENT OF STATE,
November 29, 1910.

SIR: The Department acknowledges the receipt of your dispatch 241 of the 10th instant, in which you report at length regarding the recent anti-American riots in Mexico City. You also outline the action taken by you toward bringing these unfortunate circumstances to an end, and the satisfactory results of such action. Your course in the matter, as outlined in the dispatch, is approved by the Department.

I am, etc.,

P. C. KNOX.

File No. 812.00/520.

The Acting Attorney General to the Secretary of State.

WASHINGTON, *November 30, 1910.*

SIR: I have the honor to acknowledge the receipt of your letter of the 29th instant,[1] inclosing to me translations of two memoranda left at your department by the Mexican ambassador, together with copies of your replies thereto.

In this connection I may state that general instructions have been given to the United States officers in the western District of Texas and in Los Angeles, Cal., for the arrest of Francisco I. Madero.

I shall, of course, be very glad to receive a statement of any evidence which the Mexican Government may have tending to show violation of the neutrality laws in this country by Madero.

The information relating to the activity of certain persons connected with the *Regeneración* has been brought to the attention of officers of this department at Los Angeles.

Respectfully,

J. A. FOWLER.

File No. 812.00/499.

The Secretary of State to the Mexican Ambassador.

No. 353.] DEPARTMENT OF STATE,
WASHINGTON, *December 1, 1910.*

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's confidential note No. 362, of the 28th ultimo, in which you state [etc.]

Referring to the Department's memoranda of the 29th ultimo and to previous correspondence in the matter of the prevention by this Government of any act of violation of neutrality in the United States in aid of persons in arms against the Government of Mexico, I have the honor to reiterate that this Government will act promptly in all cases of violation of neutrality that may come to its attention.

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[1] Not printed.

In this connection it is not unworthy of remark that since no state of war exists in Mexico, nor as the Department has been given to understand is any such situation imminent, it can scarcely be regarded that the parties named, no matter what their actions may be, are violating the rules of international law regarding neutrality in time of international conflict or armed rebellion. Should the suggestions in your note regarding the violation of neutrality refer to violations of the American statutes, sometimes designated as "neutrality statutes," it should be observed that under these statutes no offense is committed and no legal action looking to punishment can be instituted until and unless the parties in question carry out some of the specific acts named and prohibited in the statute; and as bearing upon this point it should be recalled that, since under the American Constitution liberty of speech and of the press is guaranteed, mere propaganda in and of itself would probably not fall within these statutes and would not therefore be punishable thereunder.

With these facts in mind, I have to repeat to your excellency the statement already made that this Government will be most prompt to act so soon as it discovers, either through its own investigations or through evidence furnished by your Government, any violation of its statutes.

Accept [etc.],

P. C. KNOX.

File No. 812.00/519.

The Attorney General to the Secretary of State.

[Telegram.]

WASHINGTON, *December 2, 1910.*

The United States attorney of the western district of Texas has wired that Madero may now appear in his district at any hour, and that he does not deem evidence at hand against him sufficient to meet technical requirements necessary to constitute violation of neutrality laws. Before replying I would appreciate a full statement from Mexican embassy as to the evidence for the use of the United States attorney.

WICKERSHAM.

File No. 812.00/519a.

The Secretary of State to the Attorney General.

WASHINGTON, *December 2, 1910.*

SIR: I have the honor to acknowledge the receipt of your telegram of this date in which you state [etc.].

In reply I have the honor to inform you that the following aide mémoire has been sent to the Mexican embassy to-day:

The Attorney General is prepared to receive from the Mexican embassy a full statement as to any legal evidence in its possession which would seem to warrant the arrest or detention of Francisco I. Madero and which it may desire to have laid before the competent legal authorities of the United States.

It is unnecessary to add that this being a legal question, it is not one in which this Department feels competent to express itself as to the propriety or sufficiency of the grounds for either the arrest or the detention of Madero.

I have [etc.],

P. C. KNOX.

File No. 812.00/480.

The Secretary of State to the Postmaster General.

WASHINGTON, *December 6, 1910.*

SIR: Referring to previous correspondence, and especially to the Department's letter of August 30 last in the case of the newspaper known as the Monitor Democrático,[1] I have the honor to inclose herewith for your information and for such action, if any, as you may consider appropriate, a copy of a letter from Mr. Charles Q. Davis, president of the Bankers Mining & Development Co., Columbus, Ohio, in which he calls attention to articles appearing in the American Magazine entitled "Barbarous Mexico."

Mr. Davis states, "We think that the owners and editors of the American Magazine should be prosecuted for libel and the publication denied the use of the mail."

For your information I inclose a copy of this Department's reply to Mr. Davis.

I have, etc.,

P. C. KNOX.

[Inclosure 1.]

Mr. Charles Q. Davis to the Secretary of State.

COLUMBUS, OHIO, *November 23, 1910.*

SIR: Permit me to call your attention to a matter of importance involving the relation of Mexico and the United States, and the protection of American citizens in Mexico. I spend many months of each year in Mexico and am in close touch with the business interests of Mexico and particularly American interests there.

A great deal of ill feeling has been created among the people of Mexico, particularly the intelligent and business class, against the United States through the publishing in the American Magazine of a series of articles called "Barbarous Mexico." An investigation disclosed to me proof that back of these publications was a Spaniard who was financing the publications, and the object was to create sympathy in this country favorable to a revolution in Mexico and create ill feeling there against the United States.

To understand the latter it is necessary to know that President Díaz's policy of extreme friendship for the United States, and his desire to be succeeded by a man who will continue his policy, finds much opposition among certain elements in Mexico. This opposition materialized in the candidacy of Mr. Reyes for Vice President, the object being not so much oppositon to President Díaz as opposition to his successor being a man who would continue the President's policy toward the United States. This movement failed, and then it was decided to move direct against President Díaz, in an effort to compel him to change his policy and support a man for his successor who would change the attitude of the administration to one of less friendship toward this country.

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[1] Not printed (file No. 812.00/38). The Department's language in the body of the letter to its correspondent (San Antonio Chamber of Commerce) is copied verbatim in Inclosure 2, replying to Mr. Davis.

In carrying out this campaign the American Magazine was used and the United States Government permitted its use. Newspapers in this country, assuming that a magazine would not print false and malicious statements, commented on these articles and usually unfavorably to Mexico. These comments, together with the articles in question, being quoted in Mexican newspapers, resulted in the widespread feeling that a campaign of vilification and abuse was being waged against Mexico by the press of the United States.

To a certain extent this places in jeopardy the lives and property of Americans throughout Mexico. It created an enormous amount of ill feeling which found an outlet in the Rodríguez case, which was merely a spark that set the feeling long ago engendered afire and was not the cause of the outbreak.

I call your attention to these facts because many Americans agree with me that the United States Government should do something to protect the lives and interests of Americans in Mexico by taking such steps as are necessary to prevent the vicious and uncalled for libeling of the Government and people of Mexico. * * *. We think the owners and editors of the American Magazine should be prosecuted for libel and the publication denied the use of the mail. * * * At the request of a number of Americans residing in Mexico I am laying this matter before you, and if there is any further information on the subject that you require, I will be pleased to furnish it.

Yours, truly,

CHARLES Q. DAVIS.

[Inclosure 2.]

The Secretary of State to Mr. Davis.

DEPARTMENT OF STATE,
Washington, December 6, 1910.

The Department acknowledges the receipt of your letter of November 23, calling attention [etc.].

I share your regret that the friendly and expanding social and commercial relations and intercourse between the United States and Mexico should be in any way imperiled or retarded by propaganda carried on from the American side of the boundary line.

I am obliged to say however that it is not clear to me in what way the particular question you raise falls within the jurisdiction of the Federal Government, or how the difficulty may be reached by the Federal officials. The Department has, however, copied your letter to the Postmaster General with a view to investigation as to possible violations of the postal laws by the persons responsible for the publications to which you refer.

It would seem, however, that the matter is entirely within the control of the State authorities, and that if any effective action is to be taken in connection therewith it must be initiated and carried out by them.

I am [etc.],

P. C. KNOX.

File No. 812.00/540.

The Secretary of State to the Mexican Ambassador.

No. 360.] DEPARTMENT OF STATE,
Washington, December 10, 1910.

EXCELLENCY: Referring to the Department's note No. 353, of the 1st instant, relative to the alleged violation of the neutrality laws of the United States by Abraham Gonzáles and Perfecto Lomelí, who are said to be in the town of Presidio, Tex., I have the honor to inform your excellency that, in a letter dated December 5, the Attorney General states that the matter has been brought to the attention of the United States attorney for the western district of Texas and of an agent of the bureau of investigation of the Department of Justice who is located in that district.

Accept, etc.,

P. C. KNOX.

File No. 812.00/559.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 422.] EMBASSY OF MEXICO,
Washington, December 10, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's aide-mémoire of the 2d instant, informing me that the Attorney General will gladly receive a complete statement of the legal proofs at our disposal which may justify the arrest or detention of Francisco I. Madero, which it is desired to present before the proper legal authorities of the United States.

This embassy, which justly values the friendly and just attitude of the American Government, will take pleasure in submitting to it all the documents and evidence which may demonstrate the guilt of Francisco I. Madero and his followers as violators of the "American statutes," also called "neutrality statutes," thus collaborating with the investigations of the Government of the United States which will show or have shown clearly the actionable character of the operations of the said individuals, who have recruited, armed and organized people on American territory and have crossed the frontier for the purpose of inciting sedition.

In the same manner as I had the honor to submit confidentially to the Department the manifesto of Madero, printed in the United States, in which he incites the army to rebellion, and a facsimile of the appointment made out in favor of a Mr. Urquidi as governor of the State of Tlaxcala, I will continue furnishing to the Department such other evidence as I may obtain. For this purpose, I have the honor to send to your excellency as addenda to this note, two clippings[1] from the San Antonio Light and Gazette of November 20 and 21, respectively, in which there appear certain statements made by Mr. Francisco Madero, father of the person who is self-constituted Provisional President of Mexico, and which in themselves indicate the character of his son's actions. He tried to deny these statements, but the reporter who furnished them to the paper affirms in the clipping of November 21 above referred to that the words of the said Mr. Madero have been exactly reproduced.

I have [etc.],

F. L. DE LA BARRA.

File No. 812.00/447.

The Secretary of State to the American Ambassador.

No. 167.] DEPARTMENT OF STATE,
Washington, December 14, 1910.

SIR: The Department acknowledges receipt of your dispatch No. 249, of the 16th ultimo, transmitting a memorandum of a conversation between President Diaz and yourself relative to the recent anti-American demonstrations in Mexico.

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[1] Not printed.

With reference to that portion of your memorandum relating to alleged violations of the laws of neutrality, you are informed that it appears to be a general rule of international law, long established and well settled, that even in a state of war mere trade in arms, ammunition, and other articles of contraband is considered legal and subject to no penalty save the loss of the goods if captured in the trade. Consequently, no stronger penalty would seem to attach in case of insurgency or in time of peace.

The three rules of the treaty of Washington of 1871, though adversely commented upon by some writers on international law, such as Lorimer, Lawrence, Bernard, Wharton, and others, are nevertheless regarded as the most progressive statement of modern international law on the subject to which they apply. They represent, as heretofore, the attitude of the United States upon the subject of neutrality as governed by the law of nations.

These rules are here inserted for your convenience:

A neutral government is bound—

First. To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted in whole or in part, within such jurisdiction, to warlike use.

Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly. To exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligation and duties.

The municipal laws enacted by Congress for the purpose of controlling the actions of the citizens of the United States and all persons residing within its jurisdiction so far as relates to their connection with hostilities toward other nations and peoples with which the United States is at peace are contained in sections 5281–5291 of the Revised Statutes, the main provisions of which are as follows:

Section 5281. Every citizen of the United States who, within the territory thereof, accepts and exercises a commission to serve a foreign prince, state, etc., in war, by land or by sea, against any prince, state, etc., with whom the United States are at peace * * * shall be fined not more than $2,000 and imprisoned not more than three years.

Section 5282. Every person who enlists or enters himself or hires or retains another person to enlist or enter himself to go beyond the limits of the United States with intent to be enlisted or entered in the service of any foreign prince or state as a soldier or seaman on board of any vessel of war, etc., shall be fined not more than $1,000, and imprisoned not more than three years.

Section 5283. Every person who, within the limits of the United States, fits out and arms, or attempts to fit out and arm, or procures to be fitted out and armed, or knowingly is concerned in the fitting out or arming of any vessel with intent that such vessel shall be employed in the service of any foreign prince or state, etc., to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, etc., with whom the United States are at peace * * * shall be fined not more than $10,000, and imprisoned not more than three years. And every such vessel, her tackle, apparel, etc., together with all materials procured for the equipment thereof shall be forfeited.

Section 5284. Every citizen of the United States, without the limits thereof, who fits out and arms, or attempts to fit out and arm, or procures to be fitted

out and armed, or knowingly aids or is concerned in furnishing, fitting, or arming any private vessel of war, or privateer with the intent that such vessel shall be employed to cruise or commit hostilities upon the citizens of the United States or their property * * * shall be fined not more than $10,000 and imprisoned not more than ten years.

Section 5285. Every person who, within the territory or jurisdiction of the United States, increases or augments, or procures to be increased or augmented, or knowingly is concerned in increasing or augmenting the force of any ship of war, cruiser, or other armed vessel which at the time of her arrival in the United States was a ship of war or cruiser or armed vessel in the service of any foreign prince or state, etc., or belonging to the subjects or citizens of any such prince, or state, etc., * * * by adding to the number of guns of such vessel or by changing those on board of her for guns of larger caliber, or by adding thereto any equipment solely applicable to war * * * shall be fined not more than $1,000, and be imprisoned not more than one year.

Section 5286. Every person who, within the territory or jurisdiction of the United States begins, or sets on foot, or provides, or prepares the means for any military expedition or enterprise to be carried on from the United States against the territory of any foreign prince or state, etc., with whom the United States are at peace, shall be fined not exceeding $3,000, and imprisoned not more than three years.

From the circumstances stated in your conversation with the President of Mexico it does not appear that the incident mentioned by him falls within any of the rules of international law on neutrality, or within the American laws on the same subject. In future conversations with the President you will have the above rules and statutes in mind.

The Department's telegram to you of November 19, 1910, stated that the American authorities in Texas were taking every measure possible to forestall any attempted breaches of neutrality which may come to their knowledge.

I am, etc.,

P. C. KNOX.

File No. 812.00/576.

The Postmaster General to the Secretary of State.

OFFICE OF THE POSTMASTER GENERAL,
Washington, December 15, 1910.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, inclosing a copy of a letter from Mr. Charles Q. Davis, president of the Bankers Mining & Developing Co., Columbus, Ohio, and a copy of your reply to Mr. Davis, concerning the articles entitled "Barbarous Mexico," appearing in the American Magazine.

These articles have been heretofore brought to the notice of this Department and on investigation it was found that there was no law under which action could be taken by this Department against their publication or circulation. I will direct that Mr. Davis be so advised.

Respectfully,

F. H. HITCHCOCK.

File No. 812.00/574.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

The ambassador of Mexico has the honor to forward to the Department of State a copy of No. 15, of the 10th instant, of Regeneración, a subversive paper published at Los Angeles by Ricardo Flores Magón and his associates, and respectfully draws the Department's attention to the last part of the article "Las Bombas y el Despotismo," whose character of anarchistic propaganda is obvious.

The Mexican ambassador's object in sending this paper is to adduce elements upon which judgment can be formed in determining the culpability of men who use the mails for the circulation of publications that are so notoriously anarchistic as the newspaper Regeneración.

WASHINGTON, *December 16, 1910.*

Note by the Department of State.—The following is the translation of the passage in Regeneración to which the Mexican ambassador calls attention:

The Diario denounces the use of bombs by the rebels, but it does not denounce the bombardment of the insurgents by the army with machine guns.

The Diario's lament is not, however, to mollify a single rebel. Science, which created marvelous cannons and the admirable modern firearms with which the armies of to-day are supplied, has also created explosives of great power which revolutionists can obtain with ease and of which they can avail themselves to execute tyrants, blow up bridges, and annihilate the soldiers of oppression.

Violence which frees is no crime; it is a virtue. Dynamite which destroys oppressions is the fruitful and glorious force of progress and emancipation.

File No. 812.00/589.

[Memorandum—Translation.]

The Government of Mexico has received advices to the effect that a group of 200 insurgents crossed near Presidio, Tex., and is now at Ojinaga, Mexico.

In view thereof and of the certainty that these men will be utterly routed by the federal troops, the Government of Mexico takes the liberty of suggesting the advisability of having forces stationed at Presidio, Tex., by the American Government, both to prevent other groups from crossing and to arrest those who would seek a refuge in the United States in their flight from the forces of the Government of Mexico.

WASHINGTON, *December 16, 1910.*

File No. 812.00/559.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, December 19, 1910.

No. 367.]

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note, No. 422, of the 10th instant, transmitting clippings

from the San Antonio Light and Gazette, of the 20th and 21st ultimo, respectively, which, you state, show the character of the acts of Francisco I. Madero.

In reply I have the honor to state that a copy of your excellency's note, together with its inclosures, has been sent to the Attorney General for his information.

Accept, etc., P. C. KNOX.

File No. 812.00/879.

The Assistant Secretary of War to the Secretary of State.

WAR DEPARTMENT,
Washington, December 20, 1910.

SIR: Referring to your letter of December 16, 1910,[1] communicating to this Department the suggestion of the Mexican ambassador that a force be sent to Presidio, Tex., to arrest and disarm revolutionists who might cross the frontier at that place, I have the honor to inclose for your information a copy of a telegram of December 18, 1910, on the subject to the commanding general, department of Texas, and a copy of his response thereto.

Very respectfully, ROBERT SHAW OLIVER.

[Inclosure 1.]

The Adjutant General to the Commanding General.

[Telegram.]

WAR DEPARTMENT,
Washington, December 18, 1910.

State Department reports 200 revolutionists in vicinity Ojinaga pursued by Mexican troops. It is thought they may attempt to cross border near Presidio, Tex. Secretary War directs you proceed in this case under your previous instructions in case after investigation you deem any action necessary.

AINSWORTH.

[Inclosure 2.]

The Commanding General of the Department of Texas to The Adjutant General.

[Telegram.]

SAN ANTONIO, TEX., *December 18, 1910.*

Information from officials Presidio, Tex., advises that force of customs inspectors and State rangers sufficient to handle situation in that vicinity.

HOYT.

File No. 812.00/586.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 494.] EMBASSY OF MEXICO,
Washington, December 23, 1910.

EXCELLENCY: I have the honor to inform your excellency that I have just received a telegram from the department of foreign rela-

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[1] Not printed.

tions of my country informing me that armed insurgents are now crossing from El Paso to Ciudad Juárez in spite of the prohibitive order issued on the subject by this Government.

As this implies violation of the neutrality laws by individuals who cross the boundary line in arms with the deliberate intention to foment revolt in a friendly country, I ask that your excellency be pleased to renew by wire the necessary orders to the local authorities having knowledge of the matter, so as to prevent the commission of the acts above referred to.

Thanking [etc.],

F. L. DE LA BARRA.

File No. 812.00/615.

The American Consul at Guadalajara to the Secretary of State.

[Extract.]

No. 233.] GUADALAJARA, *December 24, 1910.*

SIR: I have the honor to inform you that upon review of the anti-American demonstrations of November 10–11, 1910, reported in my dispatch 218 of November 15, 1910,[1] and studying the results therefrom, I find as follows:

These demonstrations were made easy at first because the minds of the people had been prepared for a revolt by antireelection emissaries; and, second, because of deep-seated jealousy or hatred of all things and persons American by the half-educated and ignorant portion of the Mexican population of this district. The lynching of an alleged Mexican was only incidental, and a large proportion of the populace engaged in the riots knew little and cared less about it. * * *

When the intent to demonstrate against the Americans became known on the 10th of November, the governor being absent, the authorities presumed it would amount only to smashing a few windows, and the police acted as if they were instructed to permit that much and to intervene only to prevent bodily harm. * * * Gen. Villaseñor gave prompt protection to the consulate at all times and to the American residence section on the night of the 11th, but even he did not deem the demonstration of the night of the 10th as being serious, in view of his experience with mobs here in former times. * * *

It is said that an American flag was burned by the mob. It is known that two small American flags were purchased on November 10, and a young man, González Olivares, was heard to boast afterwards that he had burned an American flag. * * * Upon advice from the embassy the matter was dropped.

Some Americans claim to have been insulted on the streets during those days; none has cared to make specific charges, doubtless deeming them too trivial to justify formal complaint.

The musicians of the city during the excitement signed an agreement not to play any American music. A circular was distributed about the same time and numerously signed boycotting all American goods.

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[1] Not printed.

There are about 65 to 75 residences in this city occupied by Americans, of which 11 had some windows broken. Of 32 places of business, hotels, churches, etc., 9 had windows broken. * * *

One great cause of annoyance to this consulate and to the better class of Americans in this city were the actions of misguided Americans who bragged of how many Mexicans they would kill, and who openly demanded some counterdemonstration. * * *

The foregoing are a few of the signs which bring to the surface an undoubted and deep-seated antipathy to American manufacturers and products. A recent canvass of American stores, however, shows an increase in business for November over that done during November of 1909 in all stores but two, and those cases may possibly be due to other causes. * * *

I have, etc.,

SAML. E. MAGILL.

File No. 812.00/586.

The Secretary of State to the Mexican Ambassador.

No. 371.] DEPARTMENT OF STATE,
Washington, December 29, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note, No. 494, of the 23d instant, in which [etc.].

In reply I have the honor to inform your excellency that your earlier telephonic message on the 23d instant, making the same statement and the same request, was at once communicated by this Department to the proper American authorities on the Mexican frontier. The general nature of their reply, which was communicated to your excellency by telephone on the 24th instant, was that the American consul at Ciudad Juárez, the commanding officer at Fort Bliss, and the representatives along the border of the Department of Justice and of the Treasury were in daily conference with one another; that the inspectors were extremely vigilant; that no infractions of the neutrality laws were proven; that rumors of the passing of bands of revolutionists from El Paso to Ciudad Juárez were without foundation; that the Mexican authorities had apprehended no one and were amply prepared to arrest offenders if the rumors had been true; that every rumor was being investigated not only by the American authorities but by newspapers; and that none of these rumors had been found to be well founded.

Accept, etc.,

P. C. KNOX.

File No. 812.00/604.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 534.] MEXICAN EMBASSY,
Washington, December 30, 1910.

EXCELLENCY: I have the honor to inform your excellency that I hear from credible private sources that one McQuarters, who domicile is at Dallas, Tex., directs the shipments of arms between El Paso

and Eagle Pass, availing himself of all means for his deliveries both by water and by land. The center of the said McQuarters's operations is in the city of El Paso.

In view of these reports I venture to ask of your excellency that the proper orders be issued through the regular channels, to prevent any violation of the neutrality laws in the sense above indicated.

I renew [etc.],

F. L. DE LA BARRA.

File No. 812.00/607.

No. 535.] EMBASSY OF MEXICO,
Washington, December 30, 1910.

EXCELLENCY: Through the department of foreign relations of my country I have received information to the effect that the Mexican rebel, Abraham González, has been for over a month preparing a revolutionary movement in the town of Presidio, Tex., and that some days ago he went over to the township of Ojinaga, Chihuahua, with 400 men, frequently going back to Presidio and Shafter, Tex., where he is endeavoring to procure more men and ammunition.

I have the honor to bring the foregoing to your excellency's knowledge, and to beg that you may be pleased to use your good offices to the end that the authorities concerned will take the necessary steps as provided by law to prevent violations of the neutrality laws.

Thanking, etc.

F. L. DE LA BARRA.

File No. 812.00/605.

No. 536.] EMBASSY OF MEXICO,
Washington, December 31, 1910.

EXCELLENCY: Telegraphic reports from the consul of Mexico at San Antonio, Tex., have just brought me the information that there is a number of armed men between Sanderson and Del Rio, Tex., under the lead of Coliato Guerra and another rebel, both well-known as aggressors at Jiménez and Las Vacas. I am also informed that Alfonso Madero, leader of the Madero movement at San Antonio, announces that an attack on two or three border towns will be attempted on the 5th of January.

In bringing the foregoing to your excellency's knowledge I venture to beg that you will kindly cause the necessary orders to be issued to prevent the said acts being committed in violation of the neutrality laws.

Thanking, etc.,

F. L. DE LA BARRA.

File No. 812.00/589.

The Secretary of State to the Mexican Ambassador.

[Memorandum.]

The Department of State has the honor to acknowledge the receipt of the confidential memorandum of the Embassy of Mexico, dated

December 16, 1910, and received by the Department of State on December 27, 1910, in which the embassy states that the Government of Mexico is advised that 200 insurgents have crossed the international boundary near Presidio, Tex., and are at Ojinaga, Mexico, and suggest the advisability of stationing United States troops at Presidio, both to keep other insurgents from crossing the border and to arrest those seeking to escape into the United States.

This information was telephoned to the Department of State by the Embassy of Mexico several days ago, and was immediately communicated by telephone to the War Department and the Department of Justice. Copies of the embassy's memorandum have to-day been sent to the same departments.

DEPARTMENT OF STATE,
Washington, December 31, 1910.

File No. 812.00/606.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 538.] EMBASSY OF MEXICO,
Washington, January 2, 1911.

YOUR EXCELLENCY: I have the honor to forward herewith to your excellency a clipping from the Washington Post of yesterday,[1] in which appears a statement of Abraham González, leader of a certain group of insurgents, concerning his work on the border to bring together and arm men against the constituted Government of our Republic. In view of the means of investigation at the disposal of the American Government and of its sense of justice in the strict enforcement of the neutrality laws, I think that the knowledge of that statement of Abraham González, who is now in American territory, will suffice to set on foot an investigation which will give adequate evidence of the unlawful course of men who would seek the protection of the American law for the purpose of rising against a friendly country and Government.

Thanking, etc.,

F. L. DE LA BARRA.

File No. 812.00/613.

No. 539.] MEXICAN EMBASSY,
Washington, January 3, 1911.

YOUR EXCELLENCY: I have the honor, in compliance with telegraphic instructions from my Government, to inform the Department that Abraham González, to whom I referred in my note No. 538 of yesterday, Cástulo Herrera, and P. J. Lomelí, whose seditious acts in violation of the neutrality laws are notorious from their enlisting men on American territory and committing other unlawful acts, are now at El Paso, Tex.

The American Government will find it easy to prove the punishable character of the acts committed by the aforesaid persons on the border territory, for the vigilance of the authorities and the in-

[1] Not printed. González is quoted as saying that the revolution is just begun and is daily gaining in strength.

vestigations conducted by them will have furnished them with the necessary evidence upon which to arrest Abraham González, Cástulo Herrera, and P. J. Lomelí.

My Government has declared to your excellency's Government that it would be glad to supply such evidence as it may gather—and this it has done in some cases—but it not being easy for it, as it is for the American authorities, to bring the requisite proofs together, it reports the facts, confident that a painstaking and efficacious investigation will reveal legal proof of the truth of the asservations that are made. For instance, as the starting point of a fruitful investigation, it may be enough for me to cite the information I took leave to present in my note, above referred to, touching the statements made by Abraham González to a newspaper correspondent

In the name of my Government I have the honor to ask that the Government of the United States be pleased to issue appropriate orders in the sense above indicated, to the end that duly energetic and speedy action be taken against such men as may be guilty of breaking the neutrality laws and who, abusing the hospitality they find in this country, organize and arm men against a constituted Government to disturb the peace of a friendly country.

Thanking, etc.

F. L. DE LA BARRA.

File No. 812.00/607.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
No. 374.] *Washington, January 4, 1911.*

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's four notes, numbered 534, 535, 536, and 538, the first two of which bear date of the 30th ultimo and the remaining two bearing date of the 31st ultimo and the 2d instant, respectively, all of which relate to alleged violations or contemplated violations of the neutrality laws of the United States.

In reply, I have the honor to inform your excellency that copies of these notes have been sent to the appropriate authorities, for such action as may be considered necessary.

Accept [etc.],

P. C. KNOX.

File No. 812.00/608.

DEPARTMENT OF STATE,
No. 377.] *Washington, January 5, 1911.*

EXCELLENCY: Referring to previous correspondence relative to alleged violations of the neutrality laws of the United States along the Mexican frontier, I have the honor to repeat, in paraphrase, for your excellency's information, a telegram, dated December 30, 1910, received by the Attorney General from the United States attorney for the western district of Texas:

In reply to your telegram of December 28, since November 20 I have kept myself in close touch with Consul Ellsworth with regard to the activities of Mexicans near the border, and have received almost daily reports from Eagle Pass, Del Rio, Presidio, and El Paso, through the offices of the United States

marshal and the customs authorities. Practically the same reports have been sent to the heads of the respective departments in the State of Texas, who in turn have forwarded them to Washington. At the present time there is considerable activity on the Mexican side of the river near Presidio by revolutionists, and no doubt there are numerous sympathizers among the Mexicans on the American side of the border. Up to the present time however the reports contain no evidence that men with arms have crossed the river; that attempts have been made to organize anywhere on the American side; or that any acts constituting violation of the neutrality laws have been committed. All officials of the United States in this vicinity along the border have shown much vigilance, and any persons against whom reasonable evidence of the violation of the neutrality laws may be secured will be promptly arrested.

Accept, etc.,

P. C. KNOX.

File No. 812.00/630.

The American Consul at C. P. Diaz to the Secretary of State.

CIUDAD PORFIRIO DIAZ, MEXICO, *January 5, 1911.*

SIR: I have the honor to advise the receipt of wire regarding information furnished the Department of State by the Mexican ambassador regarding the shipping of arms and ammunition to the revolutionists through the ports of Eagle Pass and El Paso, Tex. [etc.], and in reply have to say that all Federal officials deny absolutely that the neutrality laws of our country are being broken at any of the ports of our country.

I have [etc.],

LUTHER T. ELLSWORTH.

The Secretary of State to the Mexican Ambassador.

File No. 812.00/619.

DEPARTMENT OF STATE,
No. 383.] *Washington, January 6, 1911.*

EXCELLENCY: Referring to previous correspondence regarding the movements of Mexican insurgents near the international boundary, I have the honor to inform you that a letter has been received from the War Department, inclosing telegraphic correspondence on the subject with Gen. Hoyt, commanding the Department of Texas, from which it appears that on the 4th instant the general was informed of the reports that one McQuarters, domiciled at Dallas, was making El Paso a base for the shipment of arms between that city and Eagle Pass; that a number of armed men under Coliato Guerra and another insurgent leader were between Sanderson and Del Rio, Tex.; and that Alfonso Madero had announced that two or three border towns would be attacked on January 5. Gen. Hoyt was ordered to investigate, take appropriate action, and report.

The general reported on the 5th instant that he was in conference with the United States attorney and the consul of Mexico at San Antonio, and that the reports as to Guerra and Madero were based on rumors and not on definite information. He added that all was quiet at Del Rio; that Guerra and others were under surveillance;

and that insurgents had disappeared from the border near Presidio, Tex. He states that it is possible that arms are smuggled into Mexico by individuals, but not in any considerable quantities; that he has no information of seizures of arms on the Mexican side of the Rio Grande; that the civil officers are watching the situation; and that no action is deemed necessary at present.

Accept [etc.],

P. C. KNOX.

File No. 812.00/640.

The Mexican Ambassador to the Secretary of State.

[Translation.]

MEXICAN EMBASSY,

No. 620.] *Washington, January 11, 1911.*

EXCELLENCY: I have the honor to acknowledge receipt of your excellency's note number 377 of the 5th instant with which you were pleased to transmit to me the communication of the United States attorney for the western district of Texas, relative to the vigilance exercised by the American authorities along the boundary line to prevent any violation of the neutrality laws.

The embassy appreciates to their full value the efforts of the said authorities and hopes, in view of the sentiments which animate the Government of the United States, that they will prevent and energetically repress all punishable acts committed in violation of the statutes.

I renew [etc.],

F. L. DE LA BARRA.

File No. 812.00/632.

[Translation—Memorandum.]

The consul of Mexico at El Paso, Tex., reports to this embassy that the well-known agitators Abraham González, Petronio Lomelí, and Lázaro Gutiérrez de Lara are in that city engaged in revolutionary propaganda and organizing an armed force with the object of invading some part of the Mexican territory.

This embassy ventures again to have recourse to the Department of State and to ask that those men be arrested on the charge of violation of neutrality laws, which can surely be substantiated with the means of the disposal of the American authorities.

The ambassador of Mexico expresses his thanks to the Department of State for such action as it may see fit to take.

WASHINGTON, *January 11, 1911.*

File No. 812.00/633.

[Translation—Memorandum.]

This embassy learns from telegraphic advices received from the consul of Mexico at San Antonio, Tex., that an attempt was made last evening at 9 o'clock to remove the 100 guns and 75,000 cartridges

there stored, and that the local authorities are holding two Mexican laborers who were found loading arms and ammunition and refused to say who had ordered them to do that work; two wagons and four animals were also detained pending the progress of the investigation.

This embassy ventures to have recourse to the good offices of the Department of State to the end that the said investigation be carried out so as to prevent the unlawful use of the said arms and ammunition, and that steps be taken to establish the culpability of those who may be found to be implicated in the aforesaid attempt.

The ambassador of Mexico renews [etc.],

EMBASSY OF MEXICO,
Washington, January 11, 1911.

File No. 812.00/647.

No. 659.]

[Translation—Memorandum.]

The embassy of Mexico has the honor to inform the Department of State that the ministry of foreign relations of its country has forwarded to it, by wire, certain reports received from our consul at El Paso, Tex., from which it appears that there are over 400 rebels in that town who, for the most part, belonged to the parties that were operating west of Chihuahua. Among the leaders Cástulo Herrera, Antonio Ruíz, José Armendáriz, Máximo Pérez, Perfecto Lomelí, and Maximino María Maytorena are named. Three attendants of the last named and Enrique Flores Magón speak unreservedly of an attack on Chihuahua and Ciudad Juarez, declaring they have more than a thousand rifles that they will send across to some place on the Mexican border. It is also said that the rebel Lázaro Gutiérrez de Lara continues his seditious speeches, which are well attended, one of them having been delivered from the doors of the house occupied by the county court.

Lastly, the governor of a border State of our Republic reports that the rebels who fought a battle at Las Vacas with Lieut. Col. Ibáñez went over to the American side, whence they were firing at our troops.

Inasmuch as the facts above mentioned would constitute a flagrant violation of the neutrality laws of the United States, the ambassador of Mexico takes the liberty of having again recourse to the good offices of the Department of State in order that, in accordance with the justice-loving spirit it has shown, it will transmit suitable orders to the authorities concerned so that appropriate investigations be made and proceedings taken against those who may be found guilty, a measure which the Government of Mexico will highly appreciate.

EMBASSY OF MEXICO,
Washington, January 16, 1911.

File No. 812.00/659.

The American Consul at Ciudad Porfirio Diaz to the Secretary of State.

AMERICAN CONSULAR SERVICE,
Ciudad Porfirio Diaz, Mexico, January 16, 1910.

SIR: I have the honor to revert to my despatch of the 14th instant,[1] relative to the attack of [sic] the Mexican Government troops by rebels at a point opposite the ranch of Cosme Hinojosa near Comstock, Tex., but in the State of Coahuila, Mexico, on the 11th instant, and to say that Sr. Andrés Garza Galán writes me under the date of January 15, 1911, from C. P. Diaz, Mexico, in part as follows:

> Recognizing you as the representative of the American Government on this border, the official who should be fully informed as to acts emanating from the American side and in defiance of the laws of your country, I have to say: All of the soldiers with whom I have talked since I wired you the other day regarding the encounter on the border on the 11th instant unite in stating that they were fired upon from the Texas side of the river while the fight on the Mexican side was in progress. * * *
>
> A. GARZA GALÁN.

I have, etc.,

LUTHER T. ELLSWORTH.

File No. 812.00/658.

CIUDAD PORFIRIO DIAZ, *January 17, 1911.*

SIR: I have the honor to advise that since mailing my despatch of the 16th I have been called on by Señor Andres Garza Galán, special representative of the commander of the Mexican Federal troops in the State of Coahuila, and also of the governor of the same State, and he reiterates all his letter of the 16th instant disclosed.

Although Señor Galán would like to have me think that many recruits are crossing the Rio Grande at various points between Eagle Pass and Marfa, I am confident from his conversation that he knows of large bodies of rebels in this State and also in the State of Chihuahua who are making serious trouble for the Mexican Government. In fact, he admitted as much to me before he left.

Soon after the departure of Mr. Galán, Hon. Robert W. Dowe, United States collector of customs at Eagle Pass, called on me to positively deny that any Federal official saw or knew of any shots fired on the Mexican Federal troops from the American side of the Rio Grande before, during, or after the fight between the Mexican Federals and rebels on the 11th instant, and he was very indignant that Mr. Galán had declared that such was the case. He said that he had heard from his deputies since the battle herein referred to, and they all had advised him that there was no truth in the statement made by Mr. Galán.

I have, etc.,

LUTHER T. ELLSWORTH.

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[1] Not printed.

File No. 812.00/654.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 674.] MEXICAN EMBASSY,
Washington, January 18, 1911.

EXCELLENCY: With a view to adducing fresh elements of evidence that the Government of the United States may use in conjunction with its own, to establish certain responsibilities in the matter of violations of neutrality laws, I have the honor to apprise your excellency that, according to reports from the consul of Mexico at Tucson, Ariz., the Mexican rebel Ramón Vázquez tried to buy from a commercial house of that city 50 rifles for the rebels, and, in conversation with Mr. Anaya, deputy marshal of the United States, confessed that he belongs to the ranks of the rebels, whom he was induced to join by José M. Maytorena, who styles himself provisional governor of the State of Sonora by virtue of a commission issued to him by Francisco I. Madero, which Vázquez knew from having seen that document.

The foregoing data may serve as a basis for fixing the responsibility of Vázquez and Maytorena and establishing the fact that Francisco I. Madero is the promoter of the present seditious movements in the Mexican Republic, a fact which undoubtedly can be derived from the data now in the possession of the American officials and those supplied by this embassy.

I renew [etc.],

F. L. DE LA BARRA.

File No. 812.00/625.

The Secretary of State to the Mexican Ambassador.

No. 390.] DEPARTMENT OF STATE,
Washington, January 19, 1911.

EXCELLENCY: I have the honor to transmit herewith for your information a copy of a letter from the Department of Justice,[1] inclosing a copy of a letter from the United States marshal for the western district of Texas, relative to the result of certain investigations made in his district of complaints of violations of the neutrality laws by persons interested in the revolt in Mexico, together with copies of the inclosures referred to in the letter from the marshal.

Accept [etc.],

P. C. KNOX.

[Inclosure.]

The United States Marshal to the Attorney General.

WESTERN DISTRICT OF TEXAS,
San Antonio, December 31, 1910.

SIR: I inclose herewith copy of letter from Hillebrand, deputy marshal, stationed at El Paso, together with a copy of a letter, dated the 24th instant, addressed to Mr. Hillebrand by the Mexican consul at that point.

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[1] Not printed.

The allegations contained in the letter of the Mexican consul, if true, would constitute a very serious charge against the management of this office and the Bureau of Investigation, with whom we are cooperating in relation to neutrality; but, as indicated by the almost daily reports which are being forwarded to you, there is absolutely no foundation on which said allegations can rest. The statement that there was a body of armed men at Flores' ranch, in the State of Chihuahua, is an illustration of the extreme statements made repeatedly by representatives of the Mexican Government. From statements published in the El Paso papers it appears that this body of men was unquestionably the party which alarmed the city of Juarez to such an extent that they ordered out the troops, and which upon investigation proved to be a body of woodchoppers pursuing a peaceful pursuit.

Regarding the statement that bodies of armed men are crossing at Presidio, Candelaria, etc., my investigation shows no such state of affairs. Presidio is in the "Big Bend" country, 70 miles from a railroad and in practically an uninhabited region. There are no large towns, only small settlements. The means of egress either to or from Mexico are extremely limited. The country is very rough, mountainous, and full of deep canyons, and practically inaccessible except along the well-beaten tracks of travel. Large bodies of men can not move through this country except along such beaten tracks. The statement contained in this report, and others which we hear, are absolutely without foundation. They are simply rumors, given by irresponsible parties, which seem to be absolutely believed in every instance by the representatives of the Mexican Government.

My representatives along the border are alert, closely in touch with the situation, investigate all rumors of gatherings of supposed revolutions, and such an uncalled-for statement as made by Mr. Lomelí is preposterous. I am cooperating with Gen. Hoyt, commander of the Department of Texas; the representatives of the Bureau of Investigation, the customs officials, and the district attorney and his assistants, and, in fact, am ready to exercise my full authority in the premises.

As indicated in the reports which have been forwarded to the department, we have found no evidence of any violation of neutrality. There is good reason to believe that many Mexicans have crossed the border from this side, but not in large bands. This has been done openly in the great majority of cases, and as there has been no semblance of organization in such parties, there has been no way in which my representatives could act.

Referring to the statement as to the presence of Antonio I. Villareal and Praxedes G. Guerrero, I desire to say that such rumors have been investigated very carefully and they have not been found in this district.

Respectfully,

EUGENE NOLTE.

[Subinclosure 1.]

The United States Deputy Marshal to the United States Marshal.

EL PASO, TEX., *December 26, 1910.*

DEAR SIR: Inclosed please find copy of a communication I received today. * * *

Yours, very truly,

H. R. HILLEBRAND.

[Subinclosure 2.]

The Mexican Consul at El Paso to the United States Deputy Marshal.

EL PASO, TEX., *December 24, 1910.*

DEAR SIR: As I had the honor to tell you during our conference yesterday, I wish to embody in writing the different points and views I have repeatedly expressed to you in regard to the enforcement of the neutrality laws on this border, with especial application to the actual troubles in the northern part of the State of Chihuahua, Mexico.

As you are well aware, a revolutionary agitation and propaganda against the Mexican Government has been going on for long time in this town, accompanied by public and private meetings promoted by well-known agitators; by

the publication of small Spanish papers edited by one Lauro Aguirre F. Gamiochipi, where all kinds of slurs against the Mexican authorities are printed, along with false news of rebel successes and transparent invitations to the Mexican population to go and join the rebels operating in Chihuahua against the Government, and by the open sale in the streets of said papers and others of the same character published in other towns in this country by well-known agitators, enemies of the Mexican Government.

I have given you notice at the proper time of the presence in this city of some of the leaders of the movement, such as one Antonio I. Villareal and one Praxedes Guerrero, who were indicted by the Federal grand jury and whose orders of arrest have since been in your possession.

I have informed you that at Toyah, Big Plains, and other places in Texas the same propaganda was going on, and that lately, according to letters I have received, a number of Mexicans have gone from this part of Texas by way of Presidio, Candelario, Chisos, Terlingua, and Boquillas, to join the Mexican rebels that are at present on the northern border of the State of Chihuahua near its boundary with the State of Coahuila; and in one instance I pointed out to you the presence at Presidio, Tex., of Antonio I. Villareal and one Guerra, who went there with the bound purpose to invade Mexico from that point.

You are well aware that a large amount of arms and ammunition has been smuggled from this country into Mexico for the purpose of fostering a revolt against her Government, and that such operations have been carried out without interference from the American officers; and that no restrictions have been placed either in this town or in others on the American border on the sale of guns, ammunition, or explosives, even after the breaking out of the rebellion on the Mexican border.

On the 21st instant I informed you that a party of armed men had made their appearance at Flores ranch near the city of Juarez and close to the American border, and that said parties had left a trail leading from the American border to the said ranch, indicating that said parties had started from a place near the smelter, crossed the river, and gone into Mexico; I informed you also that a part of the Mexican garrison in Juarez would go early on the following morning to attack said band, and requested you to place some soldiers or officers of the law on the American border near the place of the intended attack, in order to enlist and disarm whatever rebels may cross back the line into the United States, which request I notice you received, stating that you were unable to act.

In view of all these facts, and of the great damage that my country is suffering on their account, I respectfully request you to see that the neutrality laws are properly enforced on this border, as becomes the friendly relations existing between Mexico and the United States and the neighborly duty of avoiding all causes of friction between the two countries.

Yours, very truly,

A. LOMELÍ.

File No. 812.00/627.

NOTE.—The reply to the foregoing letter from the Mexican consul was inclosed to the Attorney General by Marshal Nolte on January 3, 1911, and forwarded to the Department of State.

[Inclosure.]

The United States Marshal to the Mexican Consul.

SAN ANTONIO, TEX., *December 31, 1910.*

SIR: I am in receipt, through the hands of Deputy Marshal H. R. Hillebrand, of a copy of your letter addressed to him under date of the 24th instant, and regret to state that the statements contained therein are a great surprise to me, as I do not feel that they are entirely warranted by the facts.

Replying to the strictures contained therein, I have the following to say:

I. The public and private meetings of which you complain are not of themselves an offense against the laws of the United States, nor do they in any way violate the neutrality which this Government is most anxious to maintain between this country and Mexico. As you are well aware, the laws of the United States provide for free speech, and no one is so humble that they can not with

impunity express their views as to another person, providing always they do not utter a scandal. A scandal is punishable through the civil courts, and the remedy lies through that channel. Under the laws covering conspiracy, an overt act must accompany the oral or written agreement which has been entered into to complete such conspiracy. The mere conspiring together and not actually doing anything does not admit of punishment.

II. Regarding your statement to the effect that Antonio I. Villareal and Praxedes G. Guerrero have been in El Paso, my information does not seem to bear this out. I have been informed that these two gentlemen left Los Angeles, but I have no direct or positive information to that effect. My representatives have been warned of their possible appearance in this district, and more especially when we received word that they were at Presidio a special investigation was made along that line, and it was found that they were not there, and that the men who were mistaken for them were not working in their interests and had nothing to do with them. It is possible that if they had left Los Angeles for Mexico they left the train at some point west of El Paso and crossed the border there, but of this I have no direct information; and if they did do so, the matter is one that does not come within my jurisdiction.

III. Regarding the meetings at Toyah, Big Springs, and other places in Texas, the same statement as in I above applies to any meetings that may be held at these points. There is no doubt that numbers of Mexicans have left this district and gone into Mexico, but they have done so in a large majority of cases openly, and not being armed nor having any semblance of military organization, there is no breach of neutrality in such acts. That any large bodies have so crossed into Mexico we have been unable to show. In every instance our investigation has failed to locate any such bodies of men, either before or after the reputed crossing. With reference to the statement as to one Guerra, who is supposed to be Encarnación Díaz Guerra, I beg to inform you that my reports show that Guerra is living quietly at Del Rio, and he states positively that he has nothing whatever to do with the present movement; that he has had one punishment in relation to revolutionary matters and he does not propose to get mixed up in the same again. If this is the party you refer to, he has not left Del Rio at any time during this excitement, unless it has been so recently that I have not received the report thereof.

IV. Regarding your statement regarding the large amount of arms and ammunition smuggled from this country into Mexico, I beg to state that while this may be true, we have no evidence of any such smuggling. It is quite possible that, in small quantities, such arms and ammunition may have been smuggled across the river. I have been informed that in one instance a number of 30:30's were taken across the river at Juarez, about the beginning of the present movement. This seems to have been well known in El Paso and it is not understood why the Mexican customs officers did not take any action in connection therewith. Regarding the question of restrictions as to the selling of arms and ammunition, there are no laws upon the statute books of this country which prohibits their sale to anyone who has the price to pay for same. I have no right, nor do I know of any other authority that has any right, to forbid their sale, under the usual conditions of trade, to anyone. The Government is watching several lots of arms and ammunition, and if evidence can be obtained that they are about to be moved across the border for the aid and comfort of the revolutionists, action will be taken immediately; but until this is clearly shown we have no cause for action.

V. Regarding the information furnished by you that there was a party of men at Flores ranch, near the city of Juárez, I beg to state that an investigation of this matter failed to show any such party had crossed the river from this side. In fact, the El Paso papers state that there was no such body of men there. Of course, if they were on the Mexican side it was no part of the duties of my representatives to take any action. This office is in constant communication with its deputies, of which we have two at El Paso, one at Presidio, two at Del Rio, and one at Eagle Pass, and they are persistently engaged in running down rumors that are reported to us as to movements, and their possible action leading toward a violation of neutrality, and we have not yet received any evidence of any infraction thereof. All of these men that are immediately on the border are in close connection with other officers of the United States and of the State of Texas, and they receive not only the benefit of their own observation but of the observation of the other officers referred to. They are all men in whom I have the greatest confidence and who faithfully perform their duties, and I am convinced that

they have done so in this case. Personally, upon any evidence which can be furnished or which may be discovered, that will show an infraction of neutrality, I assure you that action will be taken at once, but mere rumor of such infraction is not a sufficient warrant for arrest. I am willing to use the full scope of my authority in these matters. I assure you that the representatives of this office will immediately act upon any definite information, showing a violation of the neutrality laws, and that rumors of violations will be investigated promptly in the future, as in the past. In addition to the men under my supervision, the Department of Justice also has a number of other representatives watching this matter and both forces are cooperating in every move.

In conclusion, Mr. Lomelí, I will add that I am of the opinion that you should furnish me with a list of witnesses to violations of the neutrality laws to which you refer or, if you find you have been misinformed, that it is due me that you write to me to that effect.

Respectfully,

EUGENE NOLTE.

File No. 812.00/655.

The Mexican Ambassador to the Secretary of State.

No. 677.] MEXICAN EMBASSY,
Washington, January 19, 1911.

EXCELLENCY: I learn from reports that have just reached the embassy that Francisco I. Madero is soon to go to San Antonio, Tex., where many of the Mexican agitators whom he encourages and urges to combat the Government of Mexico now are.

As all the evidence in the possession of the Government of the United States leaves no doubt that the said Madero is laboring to subvert the Government of a friendly country, availing himself of every means, including proclamations and other incitements to stir the Mexican Army to revolt, and recruiting of men whom he supplies with arms procured in this country, the embassy in my charge does not doubt that the American authorities will take appropriate steps for his arrest.

Without presuming to offer any suggestion to your excellency touching the violations of the neutrality laws in force in the United States committed by Francisco I. Madero and his confederates, since I have the honor to address an eminent jurist, nevertheless I find it appropriate to call your excellency's attention to the fact that the hostile acts which Madero, disregarding and abusing the boon of the hospitality of a free country, is preparing and carrying out are of such a nature that they can not but wound the United States Government's feeling of friendship for the Government of Mexico, and its well-known sense of justice, since they boldly and flagrantly violate the provisions of section 5286 of the neutrality laws of the United States, learnedly interpreted in various cases (U. S. *v.* Murphy; Wiborg *v.* the U. S.).

These are sentiments to which I appeal trusting that your excellency will once more demonstrate the uprightness of the acts of this Government and the purpose with which it is animated to cooperate in maintaining the internal peace of Mexico, to the advantage of the two neighbor countries.

Thanking your excellency in advance most earnestly for such action as you may see fit to take in the case [etc.],

F. L. DE LA BARRA.

File No. 812.00/647.

The Secretary of State to the Mexican Ambassador.

The Department of State is in receipt of an aide-mémoire of the Mexican ambassador dated the 16th instant, in which the ambassador states [etc.].

The ambassador requests that suitable orders be given [etc.].

A copy of the ambassador's memorandum has been sent to the attorney general for his information.

The Department of State has the honor again to suggest to the Mexican ambassador for his consideration the fact that under the Constitution of the United States free speech is absolutely assured, and that therefore in order to bring inflammatory speeches or propaganda within the statutes of the United States it will be necessary that some definite act or acts of which the mind can take cognizance be proved in addition to the mere word, written or spoken, which, even though indicative of the strongest desire and the most determined purpose to do the forbidden act, will not constitute the offense.

The Department is not advised regarding the report of the firing from the American side by fugitives from the battle at Las Vacas, but feels quite confident that it will transpire to have been of a most desultory nature and not improbably produced by fire directed against the fugitives while they were crossing, and perhaps after they had reached the American side. In this connection it should be observed that perhaps neither party would be capable of a nice and discriminating observance of the rules of neutrality during the heat of battle. The matter will, however, be investigated and if it should appear that the neutrality laws of the United States have been violated no effort will be spared to bring the guilty parties to justice.

DEPARTMENT OF STATE,
Washington, January 23, 1911.

File No. 812.00/665.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 694.] MEXICAN EMBASSY,
Washington, January 23, 1911.

EXCELLENCY: With your Department's note, No. 390, of the 19th instant, there has been received the copy of an official letter from the Department of Justice, inclosing a copy of a letter from the United States marshal for the western district of Texas, relative to complaints of violations of the neutrality laws committed by persons bent on stirring rebellion against the régime established in the Mexican Republic and copies of inclosures referred to in the said letter.

In expressing my feeling of gratitude for the kindness with which your excellency was pleased to forward to me the aforesaid documents, I avail myself of the occasion to say that the Government of Mexico has no doubt that the proper authorities will make all the

investigations necessary to prove the frequent violations of the neutrality laws of the United States by individuals who use every means to disturb the normal conditions of life in a neighbor country.

This assurance, with which the Government of Mexico relies on the good will of the Government of the United States to prevent disturbances, is complete. It is easy to conceive how bold the disturbers of the peace would grow if this Government expected our officers to make investigations and offer evidence concerning acts of the character above referred to, committed in American territory. Should those upon whom rests the duty of seeing that the laws of this country are observed, falter in exercising zealous vigilance and taking spontaneous action, our own country would be in constant danger, not of political vicissitudes, of which it has no fears, but of criminal attempts which, under the pretext of schemes of regeneration, have for their sole end the advancement of men who, holding no property in either country and being without means of subsistence because unable to make an honest living, have no resources but attacks on private property in Mexican territory.

This embassy believes that by conducting the investigations, as they doubtless do, with the purpose of exhausting every means of conviction, the American authorities would soon bring to light legal evidence of the unlawful character of the acts reported by our consuls to which I have had occasion to refer in the notes relative to the subject herein considered.

I have [etc.],

F. L. DE LA BARRA.

File No. 812.00/666.

No. 698.] MEXICAN EMBASSY,
Washington, January 23, 1911.

EXCELLENCY: Under express instructions from the department of foreign relations, I have the honor to inform your excellency that a force of more than a hundred men belonging to the rebels who are disturbing the peace of Mexico unloaded arms and ammunition from a wagon near the boundary line and took them into Mexican territory near Guadalupe, according to credible reports from the political authority of Ciudad Juárez, Chihuahua.

Although this is already known to the consul of Mexico at El Paso, who has no doubt lodged the requisite information with the local authorities, this embassy has the honor to ask that the department under your excellency's worthy charge be pleased to take note of the matter and give such directions as it may deem expedient, taking into consideration the great confidence with which the Government of Mexico looks to energetic and effective action on the part of this country.

I take, etc.,

F. L. DE LA BARRA.

File No. 812.00/667.

No. 699.] MEXICAN EMBASSY,
Washington, January 23, 1911.

EXCELLENCY: From reports directly received by my Government it is known that the rebel leader, José de la Cruz Sánchez, who was marauding in the northern part of the State of Chihuahua, has

crossed into American territory, at the head of a force of twenty men, to buy arms and ammunition, which are sold to them without any caution whatever by the traders.

In bringing this violation of the neutrality laws to your excellency's knowledge, I renew the expression of the sentiments referred to in my note No. 698 of the 23d of this month and of the assurance with which I look forward to an efficacious recommendation to the authorities concerned.

I renew [etc.],

F. L. DE LA BARRA.

File No. 812.00/672.

The Adjutant General to the Commanding General, Department of Texas.

[Telegram.]

WAR DEPARTMENT,
Washington, January 24, 1911.

Sent troop cavalry, equipped for field service, 30 days' rations, necessary pack transportation to as great extent as available, to each of following points: Brownsville, Laredo or immediate vicinity, Del Rio, and Eagle Pass, with instructions to patrol as far as necessary country intervening between those places, with view to aiding civil powers in enforcing neutrality laws United States. Be guided by article 48, Army Regulations.

There is now no convention or agreement authorizing troops of either Mexico or United States to cross into territory of other at any time or for any purpose. Therefore no crossing of American troops into Mexico will be permitted. Instruct commanding officers of troops accordingly.

These troops will be sent as soon as practicable after receipt of this telegram.

MCCAIN.

File No. 812.00/684.

The American Ambassador to the Secretary of State.

No. 340.] AMERICAN EMBASSY,
Mexico, January 24, 1911.

SIR: I have the honor to inclose to the Department herewith in translation for its information copy of a letter[1] from Gen. Villar, who is at present operating in the northern part of the country, to President Diaz, in which he complains somewhat bitterly of a fancied laxness of the American authorities along the Texas border in permitting Mexican malcontents to carry on operations of various kinds from the American side.

During an interview with President Diaz a few days ago he expressed himself in the same vein, intimating that a stricter patrol should be enforced and that the governor of Texas should give the matter more careful attention.

I have [etc.],

HENRY LANE WILSON.

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[1] Not printed.

File No. 812.00/613.

The Secretary of State to the Mexican Ambassador.

No. 395.] DEPARTMENT OF STATE,
Washington, January 24, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 3d instant, stating that you are instructed by your Government to inform the department that Abraham Gonzáles, Cástulo Herrera, and F. J. Lomelí are engaged in seditious acts at El Paso, Tex., and to request the United States to take action against them for violating the neutrality laws.

In reply it affords me pleasure to assure you that this Government will continue to use its best endeavors to see that its neutrality laws are not violated; but I beg leave to add that it would appear from reports already sent to your embassy that investigation has shown that many of the rumors which reach the Mexican Government regarding hostile operations in the United States seem to be without foundation in fact.

A translation of your note has been sent to the Department of Justice for its consideration.

Accept [etc.],

P. C. KNOX.

File No. 812.00/633.

The Department of State has received a memorandum dated the 11th instant from the Mexican Embassy, in which it is stated that the embassy learns from the consul of Mexico at San Antonio, Tex., that an attempt was made on the evening of the 10th instant to remove the 100 guns and 75,000 cartridges stored at that place; that the local authorities are holding two Mexican laborers who were found loading arms and ammunition and refused to say who had ordered them to do that work; and that two wagons and four animals were also detained pending the progress of the appropriate investigation.

The embassy requests that the investigation be carried out so as to prevent the unlawful use of the said arms and ammunition, and that steps be taken to establish the culpability of those who may be found to be implicated in the attempt spoken of.

In compliance with the embassy's request, the Department of State has sent to the Attorney General, for his information and appropriate action, a copy of the Mexican Embassy's memorandum.

In this connection the Department of State begs to suggest to the Mexican Embassy for its consideration that the mere traffic in arms and ammunition by citizens of the United States and Mexico is not forbidden by the rules either of international law or of the neutrality statutes of the United States, and that so long as the transactions are purely commercial and not connected with a military enterprise or expedition having its origin in the United States the traffickers would appear to be subject to no other interference than the confiscation of their goods by the Government of Mexico upon their arrival within the jurisdiction of that Government. This Government will, however, continue to use every endeavor to prevent the illegal use of such

arms and ammunition by persons resident or commorant in the United States.

DEPARTMENT OF STATE,
Washington, January 24, 1911.

File No. 812.00/654.

No. 398.] DEPARTMENT OF STATE,
Washington, January 24, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 674, of the 18th instant, in which you inform the Department that according to reports from the consul of Mexico at Tucson [etc.].

Your excellency communicates the foregoing in order that the Government of the United States may have fresh elements of evidence for use by it in determining the culpability of persons accused of violating the neutrality laws of the United States.

In reply I venture to remind your excellency that the mere fact that a man is engaged in revolutionary undertakings in another country does not render his presence in the United States illegal, and further, that the sale of arms and ammunition to individuals, so long as it is not made in connection with any act forbidden by our neutrality statutes, does not constitute unneutral conduct. As was stated in one of the cases to which your excellency has drawn the attention of this Department:

> It is not an offense against the United States to transport arms, ammunition, and munitions of war from this country to any foreign country, whether they are to be used in war or not; nor is it an offense against the United States for individuals to leave this country with intent to enlist in foreign military service; nor is it an offense against the United States to transport persons out of this country and land them in foreign countries, although such persons have an intent to enlist in foreign armies; nor is it an offense against the United States to transport from this country persons intending to enlist in foreign armies and munitions of war in the same ship. The purpose of the section in question (R. S. 5286) is to prevent the use of the soil or waters of the United States as a base from which military expeditions or military enterprises shall be carried on against foreign powers with which the United States is at peace. What it prohibits is a military expedition or a military enterprise from this country against any foreign power at peace with the United States. (United States *v.* Murphy.)

Accept, etc., P. C. KNOX.

File No. 812.00/655.

No. 399.] DEPARTMENT OF STATE,
Washington, January 24, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 677, of the 19th instant, in which you state that Francisco I. Madero is soon to go to San Antonio, Tex., and that you have no doubt that the American authorities will direct appropriate measures for his arrest.

In reply I have the honor to inform your excellency that your note has been immediately copied to the Attorney General, for use in connection with his investigation of the acts of those who are charged

with being engaged in hostile operations against the Government of Mexico. I need not assure your excellency that the provisions of the American law as defined by the courts, including the cases to which you refer, will be most carefully considered by the Attorney General in his study of this matter.

I have, however, again to remind your excellency that, in the first place, the mere carrying on of a revolutionary propaganda by writing or speaking does not constitute an offense against either the law of nations or the Federal statutes, and that in order that this Government may successfully prosecute any person for a violation of its law it is necessary that competent legal evidence shall be produced establishing the illegality of the acts which are charged. This Government has spared and will spare no effort in its endeavors to see that its international obligations are fully met, but, as you are aware, notwithstanding the numerous charges which have been heretofore made against various persons regarding their unneutral conduct on American territory, it has so far been impossible for this Government to secure evidence of such unneutral conduct sufficient to justify putting the accused parties upon trial, to say nothing of securing a conviction.

Accept [etc.],

P. C. KNOX.

File No. 812.00/632.

The Department of State has the honor to acknowledge the receipt of the memorandum of the Embassy of Mexico of the 11th instant, stating that Abraham González, Petronio Lomelí, and Lázaro Gutiérrez de Lara are engaged in revolutionary propaganda at El Paso, Tex., and requesting that they be arrested for violation of the neutrality laws.

The Department of State has taken pleasure in communicating the request of the Embassy of Mexico to the competent authorities.

DEPARTMENT OF STATE,
Washington, January 25, 1911.

File No. 812.00/672a.

The Secretary of State to the American Consul at Cuidad Porfirio Diaz.

No. 91.] DEPARTMENT OF STATE,
Washington, January 25, 1911.

SIR: Referring to correspondence between you and the Department concerning the movements of Mexicans along the border, I inclose herewith an extract from an instruction set on the 14th ultimo to the American ambassador to Mexico, in answer to his dispatch No. 249, dated November 16 last, relative to alleged violations of the laws of neutrality.

You should read with great care this inclosure, which treats of the general laws and principles of neutrality, both under the rules of international law and under our so-called neutrality statutes, in order that it may be made certain that you do not appear to assume (in

connection with the maintenance of order during the present disturbances along the Mexican border) duties and responsibilities which belong not to this Government or its officers, but to the Mexican Government and those officers who may be appropriately charged by it. Otherwise this Government may find itself facing a situation which under its laws it has no power to meet and with which therefore it would be unable to cope, although because of its attitude the Government of Mexico had come to believe that the situation could be met by this Government, and failure to meet it would give rise to discussion and perhaps irritation between the two Governments.

In this connection the Department desires to say that in your efforts to secure a proper observance of the rules and regulations governing our neutrality you should have constantly in mind that while this Government is extremely desirous that none of its citizens should violate the general laws of neutrality and the rules prescribed by our own statutes (and to that end will exercise the legal powers and faculties which it possesses), yet it must at the same time be observed that it is not possible for this Government or any of its officers to interfere in any way with the acts of its citizens or others residing within its territory unless and until such acts bring them within the rules of law above referred to.

You should in this connection have also clearly in mind that it is not illegal, being against neither the international laws of neutrality nor the rules of our neutrality statutes, to trade in arms and ammunition during a war or during a revolution; that trade in such materials is merely trade in contraband of war; and that the persons engaging therein are subject to no other penalty than the confiscation of the materials in which they are trading. Therefore so long as our customs laws are complied with in the matter of the commercial shipment of arms and ammunition into Mexico it is not clear in what way we may legally interfere with traffic in such materials on this side of the border. If the Mexican Government desires to exclude such materials from her territories, it is clearly her duty and not ours to accomplish such exclusion.

You should have further in mind that while, as already stated, this Government has the keenest interest in a strict and conscientious observance of our neutrality laws and acts during the present disturbances in Mexico, this Government can not be regarded and is not to be regarded as an insurer of the peace of Mexico, nor as a policeman charged with the maintenance of order along its northern border. Upon this point it may be remarked that the information which has been received by the Department suggests that perhaps the Mexican authorities confine their own activities very largely to reporting rumored incursions from this side of the border into Mexico, they themselves taking no action whatever in the matter beyond reporting to this Government, or if any action at all, then such action only as would be inadequate to prevent such an incursion were it attempted. It will at the same time seem that they seek to place upon this Government the entire responsibility of preventing such incursion or migration. This places the burden wholly upon the wrong side. The policing of the Mexican border is a matter for the Mexican Government, and not for this Government, and while this Government will continue to use every

legitimate endeavor to prevent illegal and hostile expeditions, it can not be charged with the responsibility of preventing the legal importation of arms and ammunition into Mexico, nor the exclusion from Mexico of bands of unorganized Mexican citizens who are returning to their native land. It seems entirely clear that such matters do not constitute a violation either of the rules of international law or of the Federal statutes governing our obligations of neutrality, and they must therefore, if illegal on the Mexican side of the border, be there met and overcome.

You will, therefore, while continuing to be most vigilant in preventing violations of the neutrality of the United States, which this Government has the strongest desire to observe, be certain to keep strictly within the law, and have especial care that you take no action which will, under the circumstances given above, appear to shift the responsibility of maintaining peace on the Mexican side of the border from the Mexican Government, where it belongs, to this Government, where it does not belong.

I am, etc. (for Mr. Knox),

WILBUR J. CARR,
Director of the Consular Service.

File No. 812.00/666.

The Acting Secretary of State to the Mexican Chargé d'Affaires.

No. 404.] DEPARTMENT OF STATE,
Washington, January 28, 1911.

SIR: I have the honor to acknowledge the receipt of the ambassador's note of the 23d instant, in which, by direction of the Mexican foreign office, he communicated to the Department a report that Mexican insurgents recently unloaded arms and ammunition in the United States, near Guadalupe, and took them into Mexico, and in which he requested the Department to take note of this matter and give such directions as might be deemed expedient.

In this relation I beg to refer to the Department's note of the 25th instant, in which attention was invited to the fact that the mere exportation of arms is not forbidden either by international law or the neutrality statutes of the United States.

The ambassador's note has, however, been referred to the Department of Justice for investigation of its subject matter.

Accept [etc.],

HUNTINGTON WILSON.

File No. 812.00/680.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 407.] DEPARTMENT OF STATE,
Washington, February 2, 1911.

SIR: Referring to the embassy's note of the 3d ultimo, wherein this Department was informed that Abraham González, Cástulo Herrera and P. J. Lomelí were engaged in seditious acts at El Paso, Tex., and request was made that this Government take action against them for violating the neutrality laws of the United States, I have now

the honor to inform you of the receipt of a letter dated the 27th ultimo from the Acting Attorney General, stating that a copy of the embassy's note had been forwarded to the United States attorney for the western district of Texas, with instructions to investigate the matter and institute criminal proceedings against these men, if it is found that they have violated the neutrality laws of the United States.

Accept [etc.],

P. C. KNOX.

File No. 812.00/675.

The Secretary of State to the Mexican Chargé d'Affaires.

Referring to the memorandum of the 16th ultimo by which the ambassador of Mexico informed the Secretary of State of the activity of Mexican insurgents in El Paso, Tex., and requested that proceedings be instituted against those found guilty of violating the neutrality laws, the Secretary of State has the honor to say that he is advised by the Attorney General under date of the 26th ultimo that the information contained in the memorandum of the ambassador of Mexico has been transmitted to the officers of the Department of Justice in the western district of Texas.

DEPARTMENT OF STATE,
Washington, February 3, 1911.

File No. 812.00/673.

The Secretary of State to the Mexican Chargé d'Affaires.

DEPARTMENT OF STATE,
Washington, February 4, 1911.

No. 409.]

SIR: In further reply to the ambassador's note of the 19th ultimo, in which he stated that Francisco I. Madero was going to San Antonio, Tex., and that the ambassador had no doubt that the American authorities would direct proper measures for Madero's arrest, it affords me pleasure to inform you that I am advised by the Attorney General, to whose department the ambassador's note was communicated, that appropriate instructions in the premises have been given to the officers of the Department of Justice in the western district of Texas.

Accept [etc.],

P. C. KNOX.

File No. 812.00/744.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

Although the Mexican Embassy appreciates that there is a strict vigilance being exercised along the border to prevent violation of the neutrality laws on the part of the Mexican revolutionists who may organize in this country, in order to facilitate the steps of the American Government the embassy informs the Department that at Eagle Pass, Tex., it is planned to-day to give expression to sym-

pathy with the revolutionists with a view to collecting funds, buying arms and ammunition, and gathering together men to stir up disorder in Mexico. As the participants will, no doubt, commit acts involving violation of the neutrality laws, the embassy believes that the Department of State will issue by telegraph the appropriate directions for frustrating the purpose of the Eagle Pass agitators, which purposes are nothing less than to violate the neutrality laws.

EMBASSY OF MEXICO,
Washington, February 4, 1911,

File No. 812.00/744.

The Secretary of State to the Mexican Ambassador.

The Department of State received on the 4th instant from the Mexican Embassy a memorandum of the same date, in which it is stated that at Eagle Pass, Tex., it is planned on that day to give expression of sympathy with the Mexican revolutionists, with the view to collecting funds, buying arms and munitions, and gathering together men to stir up disorder in Mexico; and the embassy requests that appropriate instructions be issued, by telegraph, for frustrating the purposes of the Eagle Pass agitators.

In compliance with the embassy's request, copies of the memorandum were immediately sent to the Attorney General and the Secretary of War, for their information and appropriate action.

DEPARTMENT OF STATE,
Washington, February 4, 1911.

File No. 812.00/751.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

The Mexican Embassy learns from a telegram from the department of foreign affairs that several cases containing artillery have been sent from Del Rio, Tex., to Marathon Station, whence they are to be shipped to Mexico, and as this information may serve as basis for instructions to the Government agents of the United States charged with the enforcement of neutrality laws, the embassy respectfully informs the Department of State of the matter, requesting that appropriate instructions be given to prevent the delivery of these elements of war to enemies of order in the Mexican Republic, in a manner which, more or less openly, violates the laws of neutrality.

EMBASSY OF MEXICO,
Washington, February 4, 1911.

File No. 812.00/751.

The Secretary of State to the Mexican Ambassador.

On the 4th instant the Mexican Embassy informed the Department of State of the receipt of a telegram [etc.].

The Secretary of State has taken pleasure in sending copies of the memorandum of the Mexican Embassy to the Attorney General and the Secretary of War for appropriate action.

DEPARTMENT OF STATE,
Washington, February 6, 1911.

File No. 812.00/694.

Referring to the memorandum of the Embassy of Mexico, of the 24th ultimo,[1] requesting that the investigation of a recent attempt to remove 100 guns and 75,000 cartridges stored at San Antonio be so conducted as to prevent the unlawful use of the arms and ammunition mentioned, the Department of State has the honor to say that it is advised by the Acting Attorney General, under date of the 27th ultimo, that a prompt investigation of the matter will be made and such steps will be taken as the facts in the case warrant.

DEPARTMENT OF STATE,
Washington, February 6, 1911.

File No. 812.00/740.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

Persistent rumors have reached Mexico about a general movement in some towns of Texas, adjoining the boundary, where it is asserted there are stores of arms and ammunition and groups of men ready to cross into Mexican territory. The towns of Del Rio, Carrizo Springs, Uvalde, Roma, Rio Grande, and Marfa are mentioned as being centers of such activities. While the Mexican Government has doubts as to the truth of these rumors, it deems it proper that they should be known to the Department of State for such interest as the vigilance displayed by the American Government may take therein. It is also known that Francisco I. Madero is at San Antonio, Tex.

EMBASSY OF MEXICO,
Washington, February 6, 1911.

File No. 812.00/740.

The Secretary of State to the Mexican Ambassador.

On the 6th instant the Mexican Embassy addressed to the Department of State a memorandum stating that persistent rumors have reached Mexico that in some towns of Texas [etc.].

The Department of State has taken pleasure in sending copies of the memorandum from the Mexican Embassy to the Secretary of War and the Attorney General for their information.

DEPARTMENT OF STATE,
Washington, February 7, 1911.

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[1] Should be January 11. The Department of State replied to it in an aide mémoire of January 24.

File No. 812.00/752.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 7, 1911.

According to report received by the Department, Dr. Bush, of El Paso, Tex., an American citizen, while working under the Red Cross flag, attending wounded in revolutionary camp near Juarez, with permit from the military authorities of the Mexican Government, was repeatedly fired upon yesterday by Government soldiers.

Advise foreign office and request that action to prevent recurrence be taken.

P. C. KNOX.

File No. 812.00/665.

The Acting Secretary of State to the Mexican Chargé d'Affaires.

No. 415.] DEPARTMENT OF STATE,
Washington, February 11, 1911.

SIR: I have the honor to acknowledge the receipt of Señor de la Barra's note No. 694, of the 23d ultimo, in which, acknowledging the receipt of the Department's note No. 390, of the 19th ultimo, his excellency expresses assurance that the proper authorities of the United States will make all the investigations necessary to show the culpability of persons alleged to be violating the neutrality laws of the United States in furthering the insurrectionary movement against the Government of Mexico; and presents considerations which he believes would elicit legal evidence to establish the guilt of the parties complained of.

The Department begs to assure the Mexican Embassy that the Government of the United States entertains every disposition to secure the strict enforcement of the rules of international law governing neutrality, as well as to obtain a proper observance and enforcement of the so-called neutrality statutes of the Federal Government, and to this end the Federal Executive has directed the appropriate officers to use due diligence to see that such rules and laws are observed. I must however again suggest for your consideration that inasmuch as commercial trading in arms and ammunition is forbidden neither by the rules of international law nor by the so-called neutrality statutes of the Federal Government, it is not possible for the Federal Executive to prohibit such transactions.

In this connection I ought to observe that almost all of the information which has been heretofore communicated to the Federal officers regarding alleged violations of the international rules of neutrality, as well as of the neutrality of the United States, has upon careful and minute examination proved to have been based upon groundless rumors. The officers of the United States have however been instructed to exercise a most vigilant care, in order that no violations of such rules and laws may be permitted.

Accept [etc.],

HUNTINGTON WILSON.

File No. 812.00/781.

The Governor of California to the President.

[Telegram.]

CAPITOL, SACRAMENTO, *February 13, 1911.*

The PRESIDENT,
Washington, D. C.:

I have the honor to transmit herewith copy of telegram this day received by me:

GOVERNOR OF CALIFORNIA,
Sacramento:

I respectfully inform your excellency that the neutrality laws between the United States and Mexico have been openly and publicly broken at Calexico, near Mexicali on the border line, where a party of armed rebels headed by a man named Leyba and an American named Simon Bertholdt have invaded Lower California, Mexico, and are coming freely to Calexico for supplies and cartridges. I represent these facts, of which you have knowledge by the newspapers, in hopes that you may call attention of Federal authorities in your State and put an end to this unlawful state of affairs if you find it proper.

General en jefe de la zona militar,
LOUIS E. TORRES.

HIRAM W. JOHNSON.

File No. 812.00/781.

The Acting Secretary of State to the Governor of California.

[Telegrams.]

WASHINGTON, *February 14, 1911.*

I have the honor to acknowledge the receipt of your telegram of the 13th instant, referred to the Department by the President. The complaint made by Gen. Torres against the alleged violation of neutrality laws will be promptly investigated by the proper Federal authorities and I shall be glad to inform you of the result.

HUNTINGTON WILSON.

WASHINGTON, *February 18, 1911.*

In further reply to your telegram of the 13th instant relative to the complaint of Gen. Torres, I have the honor to inform you of the receipt by the War Department of a telegram from the commanding officer of the United States troops at Calexico, reporting:

With my permission and under an armed cavalry escort Simon Bertholdt, unarmed, was brought from border to cavalry camp last Saturday. This was done to enable me to personally explain to him my orders covering enforcement of neutrality laws. After 10 minutes conversation he was escorted back to the boundary. Leyva has never openly crossed boundary and Bertholdt only once, as described. Report about open purchase of cartridges and supplies here absolutely false. No arms or supplies are reaching insurgents from United States unless they are smuggling over border. I am making every effort to prevent smuggling.

HUNTINGTON WILSON.

File No. 812.00/667.

The Acting Secretary of State to the Mexican Chargé d'Affaires.

No. 418.] DEPARTMENT OF STATE,
Washington, February 14, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note [No. 699] of the 23d ultimo, communicating to the Department a report received by your Government that the rebel leader, José de la Cruz Sánchez, has entered American territory at the head of 20 men, to buy arms and ammunition which are sold to them freely by traders.

In reply I have the honor to inform you that your note has been communicated to the Department of Justice.

Accept [etc.],

HUNTINGTON WILSON.

File No. 812.00/731.

The Secretary of State to the Mexican Chargé d'Affaires.

Referring to the confidential memorandum dated December 16, 1910, from the Mexican Embassy, inviting attention to an article entitled "Las Bombas y el Despotismo," which appeared in the issue of Regeneración for December 10, 1910, and which was claimed to be anarchistic in character, the purpose of the memorandum being to ascertain whether there was any law of the United States against the use of the mails for the circulation of publications of this kind, the Department of State has the honor to inclose for the information of the Mexican Embassy a copy of a letter on the subject from the Attorney General of the United States, from which it appears that, after a careful examination of the statutes of the United States bearing upon this question, he has failed to find any law relating to the use of mails or to the Postal Service which makes the sending of such publications through the mails an offense.

DEPARTMENT OF STATE,
Washington, February 15, 1911.

[Inclosure.]

The Attorney General to the Secretary of State.

90155–383.] DEPARTMENT OF JUSTICE,
Washington, February 3, 1911.

SIR: I have the honor to acknowledge receipt of your communication of December 27, 1910, in which you inclose a translation of a confidential memorandum dated December 16, 1910, from the Mexican ambassador, in which he calls attention to an article entitled "Las Bombas y el Despotismo" which had appeared in the issue of Regeneración for December 10, 1910, and which he claims to be anarchistic in character. The ambassador's purpose was to ascertain whether there was any law against the use of the mails for the circulation of publications of this kind.

I have had a careful examination made of the statutes of the United States bearing upon this question, and I fail to find any law relating to the use of the mails or to the Postal Service which makes the sending through the mails of a publication of this character an offense.

I have also had the laws of the State of California examined to ascertain whether or not, if such article be regarded as libelous, any action could be maintained in the courts of that State against the publisher thereof. That State has never adopted the common law, yet its legislature has defined libel as follows:

A libel is a malicious defamation, expressed either by printing or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue, or reputation, or publish the natural defects of one who is alive, and thereby expose him to public hatred, contempt, or ridicule.

Under this definition I see no reason why a prosecution could not be maintained for the publication of a libelous article, though the person defamed be a nonresident or the head of a foreign nation.

I, of course, express no views as to whether or not the article in question is libelous within the meaning of this statute, nor have I examined the decisions of the courts of California to ascertain what construction has been placed upon said statute.

Respectfully,

GEO. W. WICKERSHAM.

File No. 812.00/812.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

The department of foreign relations of Mexico hears that when employees of the Mexican Government, threatened by individuals who under political pretenses have disturbed the peace in the northern part of Lower California, went over to Calexico the commanding military officer at that place caused them to be disarmed.

Under special instructions from the Government the embassy has the honor to address the Department of State and communicates the fact to it, without any purpose other than to ask very respectfully that it may be pleased to interpose its good offices so that, as far as permissible under the law, the American authorities will show to the employees of Mexico the consideration that their self-respect requires.

MEXICAN EMBASSY,

Washington, February 15, 1911.

File No. 812.00/826.

[Memorandum—Translation.]

The press of San Francisco, Cal., says that one Richard Ferris is organizing a filibustering expedition of Americans to invade Lower California. The organizer announced by telegraph his purpose to the President of the Mexican Republic.

Without other data, the Government of Mexico does not consider the press reports to be accurate, but deems it its duty to bring them to the notice of the Department of State and so instructed the embassy yesterday, so that in the event of their being substantiated it may be pleased to direct such measures as it may deem expedient to avert an attack on Mexico's autonomy.

For its part the embassy knows that although Ferris's scheme is ridiculed by the press of California, there are many responses to the call of the promoter, who has published notices in the New York Herald and the New York World soliciting the services of 1,000 men for a military expedition.

EMBASSY OF MEXICO,

Washington, February 16, 1911.

File No. 812.00/834.

The American Ambassador to the Secretary of State.

No. 344.] AMERICAN EMBASSY,
Mexico, February 17, 1911.

SIR: With reference to the Department's telegraphic instruction of February 7, relative to the action of Mexican Federal troops in firing upon a Red Cross flag, I have the honor to inform the Department that I have received assurances that there will be no repetition of such an incident and that the matter has been placed in the hands of the minister of war for proper action.

I have [etc.],

HENRY LANE WILSON.

File No. 812.00/812.

The Secretary of State to the Mexican Ambassador.

On the 16th instant the Mexican Embassy left with the Department of State a memorandum dated February 15, stating that when employees of the Mexican Government who were threatened by insurrectionists went over to Calexico, Cal., the American authorities caused them to be disarmed. The memorandum further requested that the Department of State interpose its good offices to the end that as far as possible under the laws of the country the American authorities will show to the employees of Mexico the consideration that their honor demands.

The Department of State has taken pleasure in transmitting a translation of the memorandum to the Secretary of War for his information and appropriate action.

DEPARTMENT OF STATE,
Washington, February 18, 1911.

File No. 812.00/826.

On February 16 the Mexican Embassy left with the Department of State a memorandum in which it was stated that according to advertisements in New York newspapers one Richard Ferris, of the State of California, is recruiting men in the United States for purposes apparently hostile to Mexican sovereignty. The Mexican Embassy stated that it had been instructed to bring this matter to the attention of the Department of State so that, in the event of these advertisements being found to be for the purpose mentioned, the Government of the United States may take such steps as may be deemed expedient to avert an attack on Mexico's autonomy.

The Department of State has taken pleasure in transmitting copies of the memorandum and of its inclosures to the Secretary of War and to the Attorney General, for their information and appropriate action.

DEPARTMENT OF STATE,
Washington, February 18, 1911.

File No. 812.00/794.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 18, 1911.

The following telegram received yesterday from Secretary of Commerce and Labor:

The immigrant inspector at Calexico, Cal., telegraphs stating that a battle is being fought in that vicinity, and asking whether permission should be given to bring into the United States for medical treatment aliens, government troops, or insurrectos. Please advise me promptly if you know of any reason against this; otherwise I intend to telegraph permission.

The following reply has to-day been sent to that Department:

I beg to inform you in response to your telegram of yesterday that this Department believes that the wounded of both sides should be granted permission to enter the United States for treatment and nursing; notification, however, should be given them upon entering our territory that we reserve the right to detain them here upon their recovery if circumstances at the time require it. Therefore I suggest that this attitude of our Government be made known to any wounded who may cross into the United States.

In bringing this matter to the attention of the Foreign Office you will explain the position of this Government, stating that it will look to the Government of Mexico for any expenses incurred by the Government of the United States for nursing or detention, if detention prove to be desirable on account of circumstances that later develop.

You will also inform the Mexican Government that the American Red Cross on the 13th instant benevolently offered its services in caring for sick and wounded in Mexico in case request for its services shall be made.

WILSON.

File No. 812.00/848.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

The Embassy of Mexico represents to the Department of State that according to statements given by him to the press, the insurgent Simon Berthold has been and is now actively recruiting adventurers at Los Angeles, Cal., and in Imperial County, with Mexicali and Ensenada in Lower California for their destination.

The data supplied by the said Berthold in the inclosed clipping from the Los Angeles Record[1] throw light on the means resorted to by the persons concerned to disturb the peace and threaten the autonomy of Mexico and carry their designs into effect.

This embassy believes that with these facts the authorities could stop the organization of recruits and the sending of arms, ammunition and supplies to the insurgents of Mexicali. It also believes

[1] Not printed.

that the admission of the facts by the guilty will afford sufficient grounds for the institution of a judicial action against them.

MEXICAN EMBASSY,
Washington, February 23, 1911.

File No. 812.00/854.

The Governor of Texas to the President.

EXECUTIVE OFFICE,
Austin, February 23, 1911.

MY DEAR SIR: Agreeable to your letter of January 28, delivered to me by Mr. Casasus, the special ambassador to the United States from Mexico, asking my cooperation in the enforcement of the neutrality laws of the United States, I have directed Capt. Jno. R. Hughes, of the State Rangers, to keep a sharp lookout for Francisco I. Madero, the reputed leader of the Mexican insurrection. I have also asked Capt. Hughes to take Madero in custody for violation of the neutrality laws if he can locate him in Texas.

Mr. Casasus, in his interview with me, advised that the apprehension of Madero would bring the revolution to a close. Capt. Hughes, whose headquarters are at Ysleta, in El Paso County, Tex., advises me that Madero was in El Paso at the time of the recent threatened attack on Juarez. He further advises that the Revolutionists' headquarters are now at Saragoza, a small town in Mexico opposite Ysleta, in the mountains of San Ignacio, a distance of about 30 miles from Ysleta.

I also beg to advise that Pancho Moreno, Antonio Carrosco, and Julio Mendosa, three of the leaders of revolutionary bands in Mexico, are wanted in Texas for crimes committed in this State, and I have asked Capt. Hughes to use all diligence in apprehending them.

I would be glad if you would take up with the Mexican Government the matter of crossing the Rio Grande with sufficient force to capture these men, and advise me. I am not certain as to the advisability of this course, but should an opportunity to apprehend them arise it might not be amiss to have the consent of Mexico to pursue them across the Rio Grande.

Kindly advise if you approve of the course I have taken herein.

Very truly, yours,

O. B. COLQUITT, *Governor.*

File No. 812.00/865.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

The Embassy of Mexico has positive knowledge that the steamship *Sol* carried from New York to Galveston 3 cases of arms and 18 of cartridges, forwarded by Mr. E. D. Maurer to the Shelton-Payne Co., of El Paso, and also that the said cases were reshipped on car No. 11812 of the Galveston, Harrisburg & San Antonio Railway.

The war material considered in this memorandum forms part of a stock stored in Brooklyn, consigned to the said Maurer and held by the Bush Terminal Co. Several shipments have already been made by Maurer to the Shelton-Payne Co., of El Paso, which turns these arms and ammunition over to the agents of the rebellion in Mexico, who in turn pass them to Chihuahua, resorting to every means to elude the vigilance of the American authorities.

The secrecy with which those who have taken part in these affairs surround their doings is of itself an indication that the case is not one of legitimate trade transactions, and that they themselves realize the injury they are doing to the Government of a friendly country in thus clearly violating the laws in force in the United States.

The Embassy of Mexico respectfully brings the foregoing facts to the attention of the Department of State and hopes it will be pleased to direct appropriate measures to prevent the arms and ammunition from Galveston, as well as those that are still in Brooklyn, from reaching the rebels in Chihuahua.

MEXICAN EMBASSY,
Washington, February 28, 1911.

File No. 812.00/864.

[Memorandum—Translation.]

With all due reserves, this embassy informs the Department of State that the Government of Mexico has heard of the miscarriage of certain papers taken from the rebel Martín Casillas at El Paso, Tex., and forwarded to the district attorney of that city.

The said papers are letters from Abraham Gonzales to Soto and Orozco, dated February 11, and communications of Francisco I. Madero to his brother Raul, all bearing on the movement headed by Madero and being organized on American territory.

EMBASSY OF MEXICO,
Washington, March 1, 1911.

File No. 812.00/848.

The Secretary of State to the Mexican Ambassador.

The Department of State has the honor to acknowledge the receipt of the memorandum from the Mexican Embassy dated the 23d ultimo, relative to the alleged activities of one Simon Berthold, who is said to be recruiting men in California with Mexicali and Ensenada, in Lower California, for their destination.

The Department of State has had pleasure in transmitting a copy of this memorandum to the Attorney General of the United States.

DEPARTMENT OF STATE,
Washington, March 2, 1911.

File No. 812.00/872.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 993.] MEXICAN EMBASSY,
Washington, March 3, 1911.

EXCELLENCY: The consul at San Diego, Cal., reports to this embassy that 400 Springfield rifles out of the store of arms held by the Government in that city have been sold within the last 10 days.

As those arms are manifestly intended for the adventurers who under various pretenses are organizing expeditions to invade the territory of Lower California, I apply to your excellency with an urgent request that you take such steps as you may deem appropriate to prevent the said filibustering expeditions from being carried into effect in violation of the law of the land and to the injury of a friendly government.

Although the authorities of the United States will find it very easy to trace the lawbreakers and prevent the perpetration of their criminal acts, the embassy has called for information as to the facts and I shall hasten to bring it to your excellency's knowledge when received.

I avail [etc.],

F. L. DE LA BARRA.

File No. 812.00/875.

[Memorandum—Translation.]

The Embassy of Mexico has the honor to forward to the Department of State the facsimile and English translation of a letter written by the rebel P. Orozco to one Francisco D. Salido, so that the Department may be pleased to take note of the revelations therein contained as to the moral character of the persons who form part of the group of insurgents.

EMBASSY OF MEXICO,
Washington, March 3, 1911.

[Inclosure.]

PEDERNALES, *Dec. 11, 1910.*

Sr. D. FRANCO D. SALIDO, *Cerro Prieto.*

VERY ESTEEMED FRIEND AND FELLOW PARTISAN: I arrived here last night accompanied by 125 companions well armed to lend you our insignificant service. Referring to leaders J. L. Blanco, Jose Rascón y Tena, and Manuel F. González, I can tell you that Blanco left towards Temosachic unmindful of my orders. We saw Mr. Tena in Rosario and I had several quite disagreeable discussions; but we should not get demoralized when these friends leave us; there are many more who follow us. I know perfectly well that these poor devils participate only with the object of robbing.

As you state that the Federals will go to Cerro Prieto it would be advantageous to attack them from the rear before they begin work with their machine guns, for which purpose I shall gradually get closer to them without allowing them to see us, in order to get at them when they are unaware. I expect 85 companions from Carichic, and Mr. Villa with 50 more. I take note

that you will take the houses of Cerro Prieto. We also will be as well prepared as possible to attack the enemy by way of treachery.[1]

Free suffrage and no reelection.

First in command,
P. OROZCO.

NOTE.—On March 6, 1911, Henry Lane Wilson, American ambassador to Mexico, orally discussed conditions in Mexico with the Department and with the President. (See Message, p. XI.)

File No. 812.00/885.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1018.] EMBASSY OF MEXICO,
Washington, March 6, 1911.

EXCELLENCY: It behooves this embassy most respectfully to ask your excellency to consider, in the spirit of justice that always animates you and with the great benevolence which you have repeatedly deigned to evince in solving difficult questions connected with Mexican interests, the situation created for our country by certain corrupt elements of the people of California, who under cover of the temporary difficulties of the Mexican public administration propose to turn the territory of Lower California into a field of action for criminal undertakings.

The Government of the United States has employed the public force to prevent adventurers from crossing the dividing line of the two Californias; but, in spite of the vigilance exercised, new accessions are swelling the ranks of these men who, though they so style themselves, are not insurgents, for they can not even be recognized disturbers of the peace, since they assume the responsibilities of invaders without a cause or a flag.

As the numbers of the filibusters are daily increasing and as the press gives out undenied intimations that there are American citizens in sympathy with those men, or favorably impressed by their venture, this embassy is of opinion that the Government of the United States would greatly assist toward a prompt and satisfactory outcome of the present situation by issuing to the federal authorities some recommendation of a general public character to take vigorous measures against the movements I am speaking of.

A declaration of this nature would be all the more desirable since at present the filibusters, favored by difficulties which hamper Government vigilance, not only can organize expeditions and cross into Mexican territory, but also have the sympathy and encouragement of certain persons who, through ignorance perhaps, have not been restrained by holding public office; I have reference to subalterns of the public authority or force.

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[1] "A la moda traicionera" in the original, which is not perfectly translated in the above.

As an instance I take the liberty of pointing to the course pursued by Capt. C. S. Babcock, who, after holding conferences with Simon Berthold about the middle of February last at Calexico, Cal., and as the result of representations made by that individual, subjected to unfair treatment the Mexican authorities who had taken refuge in United States territory by censuring them unnecessarily, since the consul always took great care that they did not even inadvertently break the laws of the country that gave them hospitality, and by exposing them to the shame of being put in a position lower than adventurers who were practically given the consideration due to belligerents.

Facts like this, to which I shall again refer when it may be necessary, fill with encouragement those who are interested in stirring up attempts against Mexico and sow in the public mind seeds whose bitter fruits would soon come to light if the United States Government should not, as I believe it will, make a categorical declaration demonstrating the firmness of the friendly relations between the two countries and the perfect harmony of the interests that unite them.

Among other publications on the subject, I permit myself to select a correspondent's letter to the New York Times, which you will please find herewith,[1] and, without indorsing its statements, I draw your excellency's attention to the reflex they contain of the sentiments herein above adverted to.

On this occasion, I renew [etc.].

F. L. DE LA BARRA.

File No. 812.00/854.

The President to the Governor of Texas.

THE WHITE HOUSE,
Washington, March 6, 1911.

SIR: I have received your letter of the 23d ultimo, in which you inform me of the steps you have ordered to be taken for the apprehension of Fransisco I. Madero, for alleged violation of the neutrality laws of the United States, and for the apprehension of Pancho Moreno, Antonio Carrosco, and Julio Mendosa, three other leaders of revolutionary bands in Mexico, for crimes committed in Texas.

I desire to express my appreciation for the efforts which you are taking to prevent a violation of our neutrality laws within the borders of the State of Texas, in connection with the present insurrectionary movement in Mexico. It is clearly incumbent upon both the Federal and State Governments to take the legal steps necessary to execute faithfully, not only the laws of the United States, but the international obligations of neutrality which rest upon this Government. It is of course unnecessary to add, however, that it is equally necessary that both Federal and State officers shall have a care in their enforcement of the law that they do not themselves commit illegal acts by adopting measures beyond and outside of their legal powers.

Regarding your suggestion as to the crossing of the Rio Grande in sufficient force to apprehend certain persons named by you, I

[1] Not printed.

venture to say that, under the present circumstances and at the present time, such a request lodged with the Mexican Government would almost certainly be refused. I therefore suggest that this matter be held in abeyance. In the meantime, however, opportunity may be presented to apprehend the men within the United States.

Respectfully,

WM. H. TAFT.

File No. 812.00/864.

The Secretary of State to the Mexican Ambassador.

The Department has the honor to acknowledge the receipt of the confidential memorandum, dated the 1st instant, in which the Embassy of Mexico states that the Government of Mexico has heard of the miscarriage of certain papers taken from the rebel Martín Casillas, at El Paso, Tex., and forwarded to the district attorney in that city, which papers the embassy describes as letters from Abraham Gonzales to Soto and Orozco, dated February 11, and communications of Francisco I. Madero to his brother Raul, all relating to the movement headed by Madero and being organized in American territory.

The Department of States has confidentially communicated the memorandum of the Embassy of Mexico to the Attorney General.

DEPARTMENT OF STATE,
Washington, March 6, 1911.

File No. 811.21.

The Acting Secretary of State to the American Ambassador.

[Telegram.]

MARCH 7, 1911—10 P. M.

Inform the President of Mexico through the foreign office that the President wishes to express the hope that no misapprehensions will result from unfounded and sensational newspaper conjectures as to the military maneuvers about to take place in Texas and elsewhere and begs to give President Díaz assurance that the maneuvers have no significance which should cause concern to our friendly neighbor on the south.

WILSON.

File No. 812.00/911.

The Attorney General to the Secretary of State.

No. 90755–606.] OFFICE OF THE ATTORNEY GENERAL,
Washington, March 8, 1911.

SIR: I am in receipt of your favor of 6th instant, inclosing translation of a memorandum from the Mexican Embassy at this capital, stating that certain arms which are stored in Brooklyn are being shipped to El Paso for delivery to Mexican rebels, and asking that steps be taken to prevent this traffic. The mere shipment of arms from the United States to persons in Mexico is not in itself a viola-

tion of the neutrality statutes, but I will cause such steps to be taken as are practicable to prevent, if possible, this shipment being used for the purpose of violating the neutrality acts.

GEO. W. WICKERSHAM.

File No. 812.00/898.

The American Chargé d'Affaires to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Mexico, March 8, 1911—5 p. m.

Department's March 7, 10 p. m. Minister for foreign affairs much gratified to have President's assurance, but states no misgivings were entertained. The mobilization is to-day the preponderating topic in all circles, the general opinion being that it has some ulterior purpose.

DEARING.

File No. 812.00/931.

No. 372.] AMERICAN EMBASSY,
Mexico, March 8, 1911.

SIR: With reference to the Department's telegraphic instruction of February 7 last, directing the embassy to call the attention of the Mexican Government to the fact that Mexican Federal troops had fired upon Dr. Bush, of El Paso, Tex., while he was attending the wounded in the revolutionary camp under the flag of the Red Cross and with permission from the Mexican military authorities, to the end that the Red Cross flag be respected and that there be no recurrence of such an incident, I have the honor to inclose to the Department herewith, in translation, copy of a note from the foreign office, dated the 4th instant, with which is transmitted a note from the department of war and marine stating that the necessary orders have been given directing the Federal troops to respect the flag of the Red Cross, and pointing out that there has been no violation, in the opinion of that department, of the stipulations of the Convention of Geneva.

I have, etc., FRED MORRIS DEARING.

[Inclosure—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS.,
Mexico, March 4, 1916.

Mr. CHARGÉ D'AFFAIRES: Referring to the embassy's courteous note, dated the 9th ultimo, stating that information is had that the Federal troops of Mexico fired at Dr. Bush, of El Paso, Tex., while he was attending the wounded in the revolutionary camp, under the flag of the Red Cross, I have the honor to send to you a copy of the reply received in this department, under date of the 24th ultimo, from the department of war and marine.

In support of the reasons given by the Secretary of War, I have the honor to cite Article XXIV of the Geneva Convention of 1906, amending that of 1864, and which was ratified by the United States of America on January 2, 1907, and published August 3 of the same year, which article in its pertinent portion says the following: "The stipulations of the present convention are obligatory only between the contracting parties in case of war between two or more of them."

I renew, etc., ENRIQUE CREEL.

[Subinclosure.]

In reply to your courteous note No. 25232, of the 14th instant, transmitting the note from the American ambassador relative to the statement that the Federal troops operating in Chihuahua fired at Dr. Bush, of El Paso, Tex., while he was attending the wounded in the revolutionary camp with permission from the Mexican military authorities and under the flag of the Red Cross, I have the honor to say that, in compliance with the wishes of the American Government, the necessary orders are being given directing the Federal troops to respect the flag of the Red Cross; but as Mexico is not at war with any foreign power, and in view of the stipulations of the convention at Geneva, no society or individual can in any case protect himself under the flag of that institution, but he who does it should be punished for the crime of usurping military emblems. I renew to you the assurance of my consideration.

Mexico, February 24, 1911.

G. COSIO.

To the SECRETARY FOR FOREIGN AFFAIRS.

File No. 812.00/932.

No. 373.] AMERICAN EMBASSY,
Mexico, March 8, 1911.

SIR: With reference to the Department's telegraphic instruction of February 18 last regarding the matter of admitting into the United States from Mexico aliens, Federal soldiers, or insurrectionists who may be in need of medical treatment I have the honor to inclose herewith to the Department for its information and that of the Department of Commerce and Labor copy of a note which the ambassador addressed to the foreign office on the 29th ultimo, pursuant to the Department's instruction, and copy of the reply of the foreign office thereto, dated 1st instant, which I have just received.

It will be noted that the foreign office in its reply admits its liability for expenditure made on behalf of Federal soldiers for medical treatment and nursing, but not for others, and that it is implied that Federal soldiers should not be detained. The offer of the American Red Cross is not mentioned.

I have [etc.],

FRED MORRIS DEARING.

[Inclosure 1.]

The American Ambassador to the Minister for Foreign Affairs.

No. 519a.] AMERICAN EMBASSY,
Mexico, February 20, 1911.

MR. MINISTER: I have the honor to inform your excellentcy that the Department of State at Washington in replying to the Department of Commerce and Labor—which acted at the instance and upon information furnished by the immigration inspector at Calexico, Cal.—regarding the matter of admitting to the United States aliens, Federal soldiers, or insurrectionists who may be in need of medical treatment, has expressed the belief that the Government of the United States can properly grant admission for the purpose mentioned to wounded of whatever allegiance, but that such admitted persons should at the same time be notified that the right is reserved to detain them should circumstances appear to require such a course when they have recovered from their wounds. Any wounded person who is admitted to the United States territory for nursing and medical treatment will be advised in this sense.

Under instructions from my Government I have the honor to inform your excellency, in addition to making the foregoing explanation of my Government's position, that the Government of the United States will look to the Government of Mexico for any expenses incurred for medical treatment, nursing, and also for detention should developments appear to render detention desirable.

I am also enjoined to advise your excellency of the benevolent offer of the American Red Cross, as made to the Department of State on the 13th instant, to be ready and willing to respond to a request for its services in caring for sick and wounded in Mexico.

I avail [etc.],

HENRY LANE WILSON.

[Inclosure 2.]

The Minister for Foreign Affairs to the American Chargé d'Affaires.

[Translation.]

No. 26854.] DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 1, 1911.

MR. CHARGÉ D'AFFAIRES: I am in receipt of the embassy's note No. 519a, dated the 20th ultimo, with which you were pleased to transmit to me the proposition and conditions of the Government of the United States for such medical attention as that Government is willing to give to men wounded on Mexican territory during the present revolutionary movement who may cross the line into American territory in search of refuge.

In reply I have the honor to say to you that the Mexican Government is willing to have wounded men detained after their recovery by the American authorities until it is ascertained whether they are revolutionists or members of the Mexican Army, because from the moment when they may form part of the regular army this Government is of the opinion that they do not fall within the scope of the Revised Statutes of the United States, which refer exclusively to persons belonging to hostile expeditions against a country with which the United States is at peace.

With reference to expenses that may be incurred for medical treatment and detention in the above manner concerning men forming part of the Mexican Army, the Government of Mexico is also willing to refund such expenses to the United States; but it does not consider itself obliged to make this refund, either by international laws or those of humanity, concerning wounded revolutionists, since such obligation would not exist, even in case the rebels should have (what they do not and can not have) the character of belligerents, because the conditions required by international law are lacking, and also because they are not to be considered within the general protection which a government should give to its citizens abroad.

I renew [etc.],

ENRIQUE C. CREEL.

File No. 812.00/865.

The Secretary of State to the Mexican Ambassador.

The Department of State has the honor to acknowledge the receipt of the memorandum of the 28th ultimo in which the Embassy of Mexico states that a stock of arms and ammunition is stored in Brooklyn by the Bush Terminal Co., consigned to E. D. Maurer, by whom several shipments have been made to the Shelton-Payne Co., of El Paso, Tex., for delivery to Mexican rebels.

The Department has duly noted the embassy's request that appropriate measures be taken to prevent the delivery of any of these arms to the rebels in Chihuahua, and in this connection refers to its note to the embassy, No. 395, of January 24 last. The embassy's memorandum has been communicated to the Department of Justice.

DEPARTMENT OF STATE,
Washington, March 8, 1911.

File No. 812.00/872.

The Acting Secretary of State to the Mexican Ambassador.

No. 430.] DEPARTMENT OF STATE,
Washington, March 9, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 3d instant, in which you state that the consul of Mexico at San Diego reports that 400 of the Springfield rifles held in that city by the United States have been sold within 10 days, manifestly for use by persons intending to invade Lower California.

The Department has taken note of your request that steps be taken to prevent invasions of Mexican territory from the United States, and has communicated your note to the War Department and the Department of Justice for appropriate action.

Accept [etc.],

HUNTINGTON WILSON.

File No. 812.00/843.

DEPARTMENT OF STATE,
Washington, March 9, 1911.

EXCELLENCY: I have the honor to inclose herewith a copy of a letter from the Attorney General transmitting a copy of a report from Deputy United States Marshal E. P. Warren to the United States marshal, western district of Texas, in which Mr. Warren reports that during a battle between Mexican troops and insurgents at Mulato, on the 7th and 8th ultimo, the Mexican troops deliberately fired on American troops who were patrolling the American side of the river in order to prevent any violation of the neutrality laws, and wounded a boy and a pack horse.

The facts being as stated, it is unnecessary to point out to your excellency that the firing upon American troops on the American side of the border by the Mexican troops on the Mexican side constitutes a most grave violation not only of the principles of international law and of the sovereignty of the United States, but also of that traditional friendliness which exists between the Governments of the United States and Mexico. While the Government of the United States must assume that the soldiers in question acted in this case not only without authority, but in disobedience and defiance of what must have been their positive orders, yet it feels that it can not overlook the incident and that it must expect that the Government of Mexico will at once disavow the action and take all steps necessary to make certain that no further acts of this sort shall occur, since, if repeated, they would inevitably lead to collisions between the troops of the two countries, which there would be the strongest reasons to deplore.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.00/969.

The American Chargé d'Affaires to the Secretary of State.

No. 376.] AMERICAN EMBASSY,
Mexico, March 9, 1911.

SIR: With reference to the Department's telegraphic instruction of the 7th instant and to my telegrams to the Department of the 8th and 9th[1] instant, relative to the mobilization of United States troops on the Texas border and the assurances of President Taft to President Diaz that the mobilization has no ulterior purpose as far as Mexico is concerned, I have the honor to inclose to the Department herewith copy of my note to the foreign office, which I handed the minister for foreign affairs personally immediately upon receipt of the Department's instructions, and copy in translation of the reply of the foreign office. The text of both these notes was given out by the foreign office and is printed in all of the morning's papers. Despite this publicity, Americans and Mexicans and most of my diplomatic colleagues unite in believing that the mobilization has some other end in view than that of practice maneuvers.

I have, etc.,

FRED MORRIS DEARING.

[Inclosure 1.]

The American Chargé d'Affaires to the Mexican Minister for Foreign Affairs.

AMERICAN EMBASSY,
Mexico, March 8, 1911.

MR. MINISTER: I have the honor to advise your excellency that I am in receipt of instructions from my Government directing me to inform His Excellency President Diaz, through the medium of your excellency, that the President of the United States wishes to express the hope that no misapprehensions will result from unfounded and sensational newspaper conjectures as to the military maneuvers about to take place in Texas and elsewhere, and begs to give His Excellency President Diaz assurance that the maneuvers have no significance which should cause concern to the friendly neighbors of the United States on the south.

I avail, etc.,

FRED MORRIS DEARING.

[Inclosure 2—Translation.]

The Mexican Minister for Foreign Affairs to the American Chargé d' Affaires.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 9, 1911.

MR. CHARGÉ D'AFFAIRS: I have received your note No. 123 of this date, in which you inform me that the President of the United States of America desires that the President of the United States of Mexico be informed that the conjectures of some newspapers are completely without foundation in regard to the military maneuvers which are to be held in Texas and other points and which are entirely without significance which could cause uneasiness on the part of the Mexican people or their Government.

In reply it gives me pleasure to communicate to you the satisfaction with which President Diaz received the message you conveyed, which is so entirely in keeping with the harmonious relations existing between the two friendly nations.

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[1] Not printed.

I beg you to communicate to President Taft the gratitude of the President of Mexico for the courtesy he displayed in giving to the latter in such concise terms an explanation of the act which has given rise to conjectures which could not fail to be unfounded, since there exists no reason for any alteration of the cordial international relations which now exist.

I take this opportunity, etc.,

ENRIQUE C. CREEL.

File No. 812.00/929.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1036.] EMBASSY OF MEXICO,
Washington, March 9, 1911.

EXCELLENCY: I have received your note of this date, in which your excellency was pleased to inclose a copy of a report from Deputy Marshal E. P. Warren concerning a battle between Mexican troops and insurgents at Mulato, on the 7th and 8th instant, during which, according to the informant, our soldiers deliberately fired on the American forces which were patrolling this side of the river in order to prevent any violation of the neutrality laws and wounded a boy and a pack horse.

Your excellency says that the facts being as stated would constitute a most grave violation not only of the principles of international law and of the sovereignty of the country but also of the traditional friendship which exists between the Governments of the United States and Mexico, and that the Government of the United States must assume that the soldiers in question acted not only without authority but in disobedience of what doubtless were their positive orders, nowithstanding which it can not overlook the incident and must expect that the Government of Mexico will disavow the action referred to and take all steps necessary to the end that no other acts of this sort shall occur, as they would inevitably lead to collisions between the forces of the two countries, which would be extremely deplorable.

In reply I have the honor to inform your excellency that I am hastening to communicate by telegraph Mr. Warren's reports and your excellency's remarks and that, immediately upon receiving the answer of the department of foreign relations, I shall transmit it to your department.

I am confident that my Government, animated by the best sentiments of friendship toward the Government of the United States, will order a careful investigation of the facts in order to meet the demands of the strictest justice.

I avail [etc.],

F. L. DE LA BARRA.

File No. 812.00/875.

The Secretary of State to the Mexican Ambassador.

The Department of State has the honor to acknowledge the receipt of the memorandum of the Embassy of Mexico, of the 3d instant, transmitting a facsimile and translation of a letter written

by the rebel P. Orozco to one Francisco D. Salido in regard to the plans of certain Mexican insurgents.

The Department has communicated the memorandum and its inclosure to the Department of Justice for its information.

DEPARTMENT OF STATE,
Washington, March 11, 1911.

File No. 812.00/928a.

The Mexican Ambassador to the Secretary of State.

[Telegram—Translation.]

NEW YORK, *March 12, 1911.*

The orders given to American war vessels to proceed to Mexican ports on the Pacific and in the Gulf may produce general alarm and wound public sentiment in Mexico, for which reason it would be highly important for the American Government to be pleased to consider the expediency of tranquilizing public opinion by making known the object of such mobilization, which appears to be independent of the mobilization of the land forces on the frontier. Assuredly the American Government, animated by the spirit of sincere friendship which unites it to our Government, and taking into account the foregoing considerations, will do what is necessary to avoid arousing this painful impression.

DE LA BARRA.

File No. 812.00/922.

The Acting Secretary of State to the Mexican Ambassador, in New York.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 13, 1911.

Your message, which reached me yesterday through Señor Pereyra, was promptly forwarded to the President[1] who charges me to say to you that he greatly regrets that the calling of the United States war vessels at Mexican ports should give rise to possible misconstruction, and that their going was not prompted by the slightest unfriendly purpose or feeling toward the Mexican Government. To avoid any further misgiving on this point he has directed that they call only for coal and leave Mexican ports promptly. The *Yorktown* is on the way to Panama to relieve the *Princeton*, which has been ordered to a home port.

The President directs me to repeat to your excellency that our troops are not mobilizing or holding maneuvers on boundary, but that, as explained in his interview with you, they will be near enough and sufficient in number to permit more and larger detachments than heretofore to patrol the boundary and prevent insurrectionary expeditions from American soil against the Mexican Government. We shall be glad to have you continue to give us information to help us in this task.

ALVEY A. ADEE.

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[1] At Augusta, Ga.

File No. 812.00/964.

The Mexican Ambassador to the Secretary of State.

[Translation.]

EMBASSY OF MEXICO,
Washington, March 14, 1911.

No. 1052.]

EXCELLENCY: By direction of the department of foreign relations I address your excellency to say that the President of the Mexican Republic extremely deplores the events referred to in your Department's note of the 9th instant, which as therein stated took place at Mulato during a fight between the Federal forces and insurgents.

Although inclined to believe that the missiles which fell in American territory and injured a boy were spent bullets, the President of Mexico has ordered through the war department a thorough investigation so as to elucidate the point fully and punish the guilty, if any.

As a matter of fact, which the Government of Mexico desires to have well established by express order of the President, I remark that there is not the slightest ill will among the Mexican forces toward those of the United States that are working so efficiently to maintain neutrality, and this is made all the more evident when we observe that there has been no prior act in which any feeling of enmity could be detected.

Hoping to communicate to your excellency the results of the investigation above referred to and feeling assured that they will be entirely satisfactory,

I take pleasure [etc.],

F. L. DE LA BARRA.

File No. 812.00/965.

[Translation.]

EMBASSY OF MEXICO,
Washington, March 14, 1911.

No. 1053.]

EXCELLENCY: Under instructions from my Government I have the honor to address these presents to your excellency to express the pleasure with which it has received the gracious explanations of the President of the United States concerning the mobilization of American troops.

Mexico could not look for any other attitude on the part of a country which for many years has proved itself so good a friend of hers and has so effectively contributed to her economic development.

President Taft's words will no doubt ease public opinion in Mexico, and to that end it has been arranged to insert the message in the newspapers of the capital.

I beg [etc.],

F. L. DE LA BARRA.

File No. 812.00/981.

[Translation.]

No. 1056.

EMBASSY OF MEXICO,
Washington, March 15, 1911.

EXCELLENCY: I received in New York the telegram of the 13th instant, in which your excellency conveyed to me the reasons of the

President of the United States for ordering certain war vessels to Mexican ports, and the measures taken by your Government to avoid alarming the Mexican public with the presence of those vessels in their Pacific and Gulf ports.

On receipt of the said telegram I sent it to Mexico, whence I shall doubtless receive a response reflecting the most earnest gratitude for the President's solicitous reception of this embassy's representations, and for the noble attitude toward Mexico and her Government apparent in the President's very friendly words.

When I receive an answer I shall have the honor of transmitting it to your excellency, and meanwhile I repeat [etc.].

F. L. DE LA BARRA.

File No. 812.00/940.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 15, 1911.

Inquire of the foreign office whether there is any foundation for the painful report contained in the following telegram received from the representative of the United States district attorney at Douglas, Ariz.:

Mexican soldiers at Aguaprieta, near Douglas, yesterday, after skirmish with insurrectos, took as prisoners nine Mexicans, most of whom work this side line. They immediately stood them up and shot them without any trial whatever. The prisoners had no arms, but were merely onlookers. Reported 11 more were shot in like manner this morning. They have many more captives in jail Aguaprieta, and advisers of these are asking civil authorities to intercede. This we can not do. In name of humanity can not our country put a stop to this barbarous slaughter of innocent men? Two Americans watching fight were also fired upon by Mexican troops; not injured. Answer.

HUNTINGTON WILSON.

File No. 812.00/940.

The Acting Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, March 16, 1911.

MY DEAR MR. AMBASSADOR: The following telegram has been received from a representative of the United States district attorney at Douglas, Ariz.:

[Same telegram as that quoted in above telegram to the chargé d'affaires.]

Our embassy at the City of Mexico has not reported as to whether any unauthorized action of subordinate officials gives substance to this painful report, of which I feel your excellency would wish to be apprised.

Very sincerely, yours,

HUNTINGTON WILSON.

File No. 812.00/973A.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 16, 1911—7 p. m.

Urgent. You will hand the following note to the minister for foreign affairs:

Under instructions from his Government, the chargé d'affaires of the United States of America has the honor to refer to the report that the Mexican Government is considering the suspension of certain constitutional guaranties and to allude also to certain statements purporting to come from Mexican official sources on the subject of the status of foreigners who may have been drawn into the insurrection.

How strongly the Government of the United States deprecates illegal activities of American citizens in engaging in or in any way fostering the present insurrection is already well known to the Government of Mexico through the effort thus far taken to prevent such illegal acts and to secure the punishment of those implicated.

In reiterating the assurance of this disposition the Government of the United States has every confidence that the enlightened policy of the Mexican Government is certain spontaneously to adopt in regard to American citizens who may have been drawn into the insurrection the course most consonant with the high principles which animate that Government. The Government of the United States therefore takes it for granted that American citizens who might be taken prisoners as participants in this insurrection will in every case be dealt with only in accordance with the broad principles of equitable justice and humanity, as well as according to the principles of international law which may be involved, and always after due trial and full and fair opportunity to be heard in their defense—indeed, in such manner as has already been generally indicated to the Government of the United States in the cases of those whose apprehension has been thus far reported.

In this spirit, and with every confidence in the disposition of the Government of Mexico in the premises, the chargé d'affaires of the United States has the honor to suggest, in pursuance of his instructions, that appropriate instructions be issued to the proper military officers and officials in the sense indicated. This course would seem peculiarly advisable in view of the great number of American residents in Mexico and particularly in view of the fact, now well known to both Governments, that those insurrectionary movements are already widespread and serious.

This step is suggested to preclude the possibility of any deplorable incident.

HUNTINGTON WILSON.

File No. 812.00/979.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1057.] EMBASSY OF MEXICO,
Washington, March 16, 1911.

EXCELLENCY: Certain rumors have come to the knowledge of the Government of Mexico concerning the scheme conceived by certain rebels to give orders to insurgent groups to dress so as to be mistaken for soldiers of the Federal Army and fire at the American soldiers on guard duty along the frontier.

Neither the mischievous ends of the scheme nor the baneful results it could evolve by inflaming the minds and stirring up a conflict which might be difficult of solution, however great the efforts made by both Governments, will escape your excellency.

Taking the foregoing into account I address your excellency and beseech you to issue orders in the sense that the officers of the American Army in command on the border be put on their guard and given to understand that the loyal soldiers of Mexico are incapable of any action offensive to the forces of a friendly Government and that even though their sentiments were not what they are, sentiments of profound gratitude toward the defenders of order in this country who are maintaining neutrality, their respect for discipline and the honor of the flag would be sufficient to insure their always observing a dignified and prudent attitude.

I take [etc.],

F. L. DE LA BARRA.

File No. 812.00/980.

[Translation.]

No. 1058.] EMBASSY OF MEXICO,
Washington, March 16, 1911.

EXCELLENCY: From an official report by Col. Manuel Tamborrell, military commander at Ciudad Juárez, to his superior officers, my Government has learned that in an expedition to the west of that city about the 7th of February last, when the soldiers of Lieut. Col. Manuel G. Pueblita reached a point near the first monument opposite the smelting works, several groups on the American bank of the Rio Grande discharged firearms at the Mexican force.

I do not believe that the facts have come to the knowledge of the Federal or local authorities at El Paso as, were it so, appropriate punishment would have been inflicted on the perpetrators of that outrage, nor do I believe that it will be easy to investigate the matter. I am, therefore, guided in communicating the foregoing to your excellency by the purpose of bringing to the notice of the department under your very worthy charge the animosity that prevails among certain elements of the border population of Texas against the servants of the Government of Mexico, on no other ground than that it has become one of the present duties of those servants to check the march of sedition.

There is no doubt that your excellency, on taking into consideration the significance of facts like that above mentioned, will be able to appraise certain wholly groundless complaints that have been made against the Federal soldiers of Mexico by misinformed or biased persons, for when ill will towards our army reaches the extreme of attempting to sow death in its ranks, on the part of persons who are noncombatants, it is no wonder that they will with greater ease try to injure its good name in other ways.

I have deemed it my duty to enter upon the foregoing considerations and to bring them into connection with my note No. 1057 of this date by which I acquaint your excellency with the scheme to pass rebels who would commit outrages on the American frontier for Federals; for, I beg to say it again, your excellency will thus be put in possession of all the elements on which to form judgment if

any deplorable incident should unfortunately occur through the agency of persons whose minds are obscured by their evil passions.

I avail [etc.],

F. L. DE LA BARRA.

File No. 812.00/919,977.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MEXICO, *March 17, 1911.*

The permanent joint commission of Senate and House to-day promulgated suspension of constitutional guaranties throughout the Republic in the case of persons interfering with railroads, telegraph lines, electric power plants, or hacienda property.

DEARING.

File No. 812.00/915.

The Secretary of State to the Mexican Ambassador.

Referring to the confidential memorandum of the embassy of Mexico of the 1st instant, in reference to the supposed miscarriage of certain papers taken from the rebel Martin Casillas at El Paso, Tex., the Department of State has the honor to say that it is informed by the Department of Justice, to which the memorandum was communicated in confidence, that the papers mentioned have not in fact miscarried, but are in the possession of the assistant United States attorney at El Paso, who is preserving them for use as evidence.

DEPARTMENT OF STATE,
Washington, March 17, 1911.

File No. 812.00/987.

The Mexican Ambassador to the Department of Justice.

[Memorandum—Translation.]

The Embassy of Mexico presents its respects to the Department of Justice of the United States of America and has the honor to forward to it herewith, for all pertinent purposes, a photographic copy of a letter written by Abraham González at El Paso, Tex., under date of February 1 last, which shows that the neutrality laws of the United States have been broken by said person.

EMBASSY OF MEXICO,
Washington, March 17, 1911.

[Inclosure—Translation.]

In great haste, as it is almost train time, I write this to suggest the advisability of leaving at Casas Grandes a rear guard sufficient to keep the garrison at bay. Advance with the remainder of the force, provided there be not fewer than 300 men at Ciudad Juárez. Send word to Señor Orozco to make a similar

movement with a part of his command, also leaving enough behind to check Navarro's advance. It is much more important to take Juárez than Casas Grandes. This is a mere suggestion, and you must act according to your judgment and the circumstances.

ABRAHAM GONZÁLEZ.

File No. 812.00/911.

The Secretary of State to the Mexican Ambassador.

In further reply to the memorandum of the Embassy of Mexico of the 28th ultimo, stating that certain arms which are stored in Brooklyn are being shipped to El Paso for delivery to Mexican rebels, and asking that steps be taken to prevent this traffic, the Department of State has the honor to say that it is informed by the Department of Justice, to which the embassy's memorandum was communicated, that the mere shipment of arms from the United States to persons in Mexico is not in itself a violation of neutrality statutes, but that the Department will cause such steps to be taken as are practicable to prevent, if possible, such shipments being used for the purpose of violating the neutrality acts.

DEPARTMENT OF STATE,
Washington, March 18, 1911.

File No. 812.00/1023.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

This embassy has private information to the effect that the I. C. Hirsch Iron, Steel & Rail Co., of Cincinnati, Ohio, whose address is International Building, 226 East Fourth Street, holds a stock of 15,000 Springfield rifles and 125,000 cartridges and is ready to sell the rifles for $1.85, without bayonet, or $2.09, with bayonet and belt, and the cartridges for $24.15 a thousand, or $21.40 for the whole lot. The factory announces that it has received offers for the purchase of those arms.

EMBASSY OF MEXICO,
Washington, March 18, 1911.

File No. 812.00/1034.

The Mexican Ambassador to the Assistant Secretary of State.

[Translation.]

MEXICAN EMBASSY,
Washington, March 20, 1911.

MY DEAR MR. WILSON: I have the honor to acknowledge the receipt of your letter of the 16th instant, in which you transcribe to me the telegram sent by a representative of the district attorney of Douglas, Ariz., according to which the Mexican soldiers who were at Agua-prieta the day previous to the date of the telegram took nine Mexican prisoners after a skirmish with revolutionists, many of these Mexi-

cans being laborers engaged in work on American territory, and immediately after apprehending them shot them, without any trial, though they were not armed, the only persons witnessing the acts being curious onlookers. The informant adds that, on the morning of the day of his telegram, it is said that 11 executions similar to the previous ones were made, and that there are prisoners in the jail at Aguaprieta who are asking the intervention of the civil authorities either themselves or through their counselors, it being understood that this relates to the American authorities, since the informant says that they can not do this, and includes himself among them.

The signer of the telegram asks the authority whom he addresses whether it is possible, in the name of humanity, to prevent the continuance of this "barbarous butchery of innocents," whereupon he adds that two Americans who witnessed the affray were the target for shots from the Mexican troops, but were not hit.

After inclosing the foregoing message, you tell me that the United States Embassy in Mexico did not report whether it was subalterns of the Mexican Army that committeed unauthorizedly the acts which gave rise to this painful report, of which you very rightly deem that I ought to have knowledge.

In reply I have the honor to state to you that I have transmitted the entire contents of your letter by telegraph to my Government, including, therefore, not only the statement of the facts, but also the opinions of the judicial authority who sent it, and I am sure that strict orders will be given to make a thorough and impartial investigation of the case, since the honor of the army is pledged to do this, and to punish those who may have been guilty of such acts in case the assertions contained in the aforementioned message should prove to be correct.

Nevertheless, I keenly regret, and you must also have done so, that the judicial officer of Douglas allowed himself to make insinuations and comments so much out of place in a message sent by him to his superior, since it is illogical to pretend that a Government should be responsible for acts committed by subalterns without orders from their superiors and even contrary thereto. In the case of a Government like mine, which has given evidence of its love of justice, it is sufficient to merely report an act which appears criminal in order to induce it to investigate the occurrence and hold the guilty parties responsible.

When this embassy has had the honor to address the Department of State in order to point out failure on the part of certain subordinate authorities to fulfill the obligations incumbent upon them it never presumed to make undue generalizations, since it knows the feeling of love for justice which inspires the American Government in its acts.

When my Government learns the result of the investigation of the events of Aguaprieta, which it will certainly order, I shall have the honor to transmit the result to you in order that you may take the proper steps in view of the circumstances and at least show the representative of the district attorney of Douglas the impropriety of his utterances.

At all events the levity with which the aforementioned judicial officer proceeded in making his unwarranted comments is to be la-

mented, since such a mode of judgment keeps up the excitement on the frontier, the official character of the informant and fact that he was addressing a superior being especially noticeable.

I will avail myself, etc.,

F. L. DE LA BARRA.

File No. 812.00/1010.

The Mexican Embassy to the Secretary of State.

[Memorandum—Translation.]

The Embassy of Mexico respectfully draws the Department of State's attention to the propriety of inflicting condign punishment on three men belonging to a band which crossed the boundary line and attacked Saric and other places in Sonora, and whose case is to be heard to-day in the county court of Nogales, Ariz., to which end the said embassy begs that appropriate instructions be issued to District Attorney Morrison.

MEXICAN EMBASSY,
Washington, March 20, 1911.

File No. 812.00/1011.

[Memorandum—Translation.]

The local authorities of Del Rio have stopped a contraband shipment of 30 guns and 19,000 cartridges intended for the Mexican rebels; the embassy of the Republic hastens to bring this to the knowledge of the Department of State, with a request that it be pleased to make such recommendations as it may see fit to prevent the said implements of war from reaching their destination.

MEXICAN EMBASSY,
Washington, March 20, 1911.

File No. 812.00/1012.

[Memorandum—Translation.]

The Embassy of Mexico respectfully begs the Department of State to be pleased to use its good offices toward obtaining permission for Gen. Don Gonzalo Luque to bring provisions and fodder to Ojinaga, Chihuahua; for if he does not obtain them from American territory, his command will be deprived of means indispensable for continuing its military operations.

MEXICAN EMBASSY,
Washington, March 20, 1911.

File No. 812.00/1027.

The American Ambassador to the Secretary of State.

[Telegrams—Paraphrase.]

MEXICO, *March 20, 1911.*

The situation is worse than when I left here, especially as to active physical resistance and growth of popular discontent. Business now

suffering profoundly; prices for all necessities abnormally high; revolution more definitely active in States of Guerrero, Puebla, and Yucatan, and is directed from the north.

The action of President Taft in taking military precautions has brought the Government to realize its responsibility in protecting lives and property of foreigners. American population profoundly relieved and feel a security that is arresting the heavy emigration of women and children to the United States. This was expressed by a committee from the American colony who called this morning.

The whole situation now awaits the return of Mr. Limantour and ensuing conferences; if these result in arrangement with the revolutionists, based on a definite program of reform and changes in the personnel of the Government, conditions will doubtless improve. If Limantour is not successful, they will grow worse.

WILSON.

File No. 812.00/1033.

MEXICO, *March 21, 1911.*

In an interview with him to-day President Diaz expressed to Mr. Wilson great satisfaction with the attitude of the American Government, and declared his belief that for many reasons the effect of our military movements would strengthen the hands of the Mexican Government.

File No. 812.00/964.

The Acting Secretary of State to the Mexican Ambassador.

No. 438.] DEPARTMENT OF STATE,
Washington, March 21, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant, in which you state that the President of Mexico, although inclined to believe that the bullets which fell in American territory during the fight at Mulata were spent balls, has ordered an investigation in order that those at fault in the matter, if there are any such, may be punished.

The Department appreciates the attitude assumed by your Government, and awaits the results of the investigation which it is now conducting.

Accept [etc.],

HUNTINGTON WILSON.

File No. 812.00/1037.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *March 22, 1911.*

Mr. Limantour admitted to me yesterday that his ability to save the situation was doubtful, being embarrassed both by his friends, who insist that he accept the vice presidency, and by the unresponsive attitude of the President, who is not only averse to delegating his powers but inactive in applying them himself to this emergency. Mr. Limantour announces that he is unwilling to accept the succession, but willing, if accorded full support, to take temporary direc-

tion of affairs. He acknowledged the gravity and wide extent of the revolutionary movement, but asserted that it would fail, if his Government exercised proper energy, for lack of leadership and organization.

As to United States military movements on the border he was greatly relieved when I assured him positively that they were primarily to discharge international obligations, and the United States had not the slightest intention of intervening, unless the present Mexican Government should fall and not be succeeded by a responsible one.

File No. 812.00/1048, 1049.

[Telegram—Paraphrase.]

MEXICO, *March 23, 1911.*

The revolutionary situation is worse than ever. My colleagues and I are all hoping, however, for a definite arrangement between Limantour and President Diaz which might open the way to united, energetic action, but negotiations for this understanding give no promise of fruition.

Mexico City government organs assert Madero with 3,000 men is marching on Chihuahua City. Discouraging reports from the five States of Durango, Sinaloa, Jalisco, Vera Cruz, and Yucatan. This city is outwardly calm, but there is much talk about the relations between President Diaz and Mr. Limantour. It becomes daily more apparent that if the situation is to be saved at all it will be by the military precautions of President Taft almost exclusively. These precautions, besides exerting a sobering effect upon public opinion in the Republic, have, strange to say, modified anti-American feeling in and around the City of Mexico.

File No. 812.00/979.

The Acting Secretary of State to the Mexican Ambassador.

No. 439.] DEPARTMENT OF STATE,
Washington, March 23, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 16th instant, by which you inform the Department that reports have come to the Government of Mexico that Mexican insurgents intend to dress like soldiers of the Mexican Federal Army and fire on American soldiers performing guard duty on the frontier.

Your note has been copied to the War Department and the Department of Justice for their information.

Thanking [etc.],

HUNTINGTON WILSON.

File No. 812.00/980.

No. 440.] DEPARTMENT OF STATE,
Washington, March 23, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 16th instant, by which you advise the Department that Col. Manuel Tamborrell, commanding your Government's forces

at Ciudad Juarez, states in an official report that about February 7 several groups of persons on the American side of the Rio Grande near that city fired on the command of Lieut. Col. Manuel G. Pueblita of the Mexican Army.

Copies of your note have been sent to the War Department and the Department of Justice for their information and for appropriate action by the Attorney General.

Accept [etc.],

HUNTINGTON WILSON.

File No. 812.00/1012.

The Department of State to the Mexican Ambassador.

Referring to the memorandum of the Mexican Embassy of March 20, 1911, the Department of State respectfully replies that it does not perceive, either in the principles established by the so-called neutrality statutes of the United States or by the rules of international law governing this class of transactions, anything that would, under the circumstances of this case as understood by the Department, prohibit the commercial purchase within and shipment from the territory of the United States by private agents of provisions and fodder for the Mexican troops at Ojinaga, Chihuahua.

DEPARTMENT OF STATE,
Washington, March 23, 1911.

File No. 812.00/1011.

Replying to the Mexican Embassy's memorandum of the 20th instant concerning the detention by the local authorities at Del Rio, Tex., of a shipment of 30 rifles and 19,000 cartridges alleged to be intended for the insurrectionists in Mexico, the Department of State has the honor to say that copies of the memorandum have been sent to the Departments of War and Justice with the request that the appropriate action be taken.

In this connection, however, the Department takes occasion to invite the embassy's attention to the Department's notes of January 24 and 28 and February 11, 1911, in which it was pointed out that mere commercial trading in arms and ammunition is forbidden neither by the rules of international law nor by the so-called neutrality statutes of the United States, as has been clearly set forth by the Federal courts in the case of The United States *v.* Murphy, to which his excellency the Mexican ambassador was good enough to direct the attention of this Government and from which the Department had the honor to quote in its note of January 24.

DEPARTMENT OF STATE,
Washington, March 24, 1911.

File No. 812.00/931.

The Acting Secretary of State to the American Ambassador.

DEPARTMENT OF STATE,
No. 264.] *Washington, March 24, 1911.*

SIR: The Department has received the embassy's No. 372 of the 8th instant, in which, with reference to the Department's telegram

of February 7 last, directing the embassy to call the attention of the Mexican Government to the fact that Mexican federal troops had fired upon Dr. Bush, of Elo, Tex., while he was attending the wounded in the revolutionary camp under the flag of the Red Cross and with permission from the Mexican military authorities, there is inclosed a translation of a note on the subject from the foreign office.

Copies of this correspondence have been forwarded to Representative W. R. Smith of Texas, and to the secretary of the American National Red Cross, for its information and comment.

I am [etc.],

HUNTINGTON WILSON.

File No. 812.00/1081.

The Secretary of the Treasury to the Secretary of State.

TREASURY DEPARTMENT,
Washington, March 24, 1911.

SIR: In reply to yours of March 23, inclosing correspondence between the State Department and the Mexican Embassy relating to an alleged prohibition of the ordinary export of supplies across the Rio Grande River, I beg to confirm the explanation given over the telephone, to wit: That the Treasury Department has not prohibited such exportations, and has only enforced the regular and usual requirement that exports and imports be made through established customs ports.

Very respectfully,

FRANKLIN MACVEAGH.

File No. 812.00/1012.

The Acting Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, March 24, 1911.

EXCELLENCY: With reference to the Department's reply of yesterday to your excellency's communication of the 20th instant inquiring as to Gen. Luque's desire to purchase certain supplies on this side of the frontier, and with reference also to the duties of American customs officials in connection with such a transaction, I have the honor to point out to your excellency that such officials could be concerned in the ordinary course of their duties only with the proper enforcement of existing regulations, whereby exports and imports may only be effected at an established port of entry.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.00/987.

The Secretary of State to the Mexican Ambassador.

The Department of State has the honor to acknowledge the receipt of the memorandum of the Embassy of Mexico of the 17th instant, transmitting for communication to the Department of Justice

a letter written by Abraham González at El Paso, Tex., in regard to the movements of Mexican insurgents near Juárez and Casas Grandes, and has copied the memorandum and its inclosure to the Attorney General for his information and such action, if any, as he may deem it proper and advisable to take.

In connection with the suggestions in the embassy's memorandum the Department feels however that it should remark that it is almost certain that the acts of which complaint is made by the embassy do not constitute any infringement whatsoever of the American neutrality statutes, so called, and that it will not be possible to base any criminal prosecution upon the information which the embassy sets forth.

Moreover, while the matter is not wholly germane to the present communication, it might be remarked that such an action as is reported could scarcely be regarded as a violation of the principles of international law, as those principles were enunciated in the convention regarding the rights and duties of neutral powers and persons in cases of war on land, which was signed at The Hague in 1907.

DEPARTMENT OF STATE,
Washington, March 25, 1911.

File No. 812.00/1129.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1138. EMBASSY OF MEXICO,
Washington, March 25, 1911.

EXCELLENCY: The department of foreign relations informs me by telegram of yesterday's date that the Government will probably need to pass some supplies intended for Gen. Luque, at present at Ojinaga, Chihuahua, by way of Presidio, Tex.

I ask your excellency, if there be no objection thereto, that you be pleased to communicate your orders to whomever it may be proper, so that the operation may be carried out promptly and easily.

Thanking, etc.,

F. L. DE LA BARRA.

File No. 812.00/1066.

The American Consul at Nuevo Laredo to the Secretary of State.

[Telegram—Paraphrase.]

NUEVO LAREDO, *March 26, 1911.*

In expectation of an attack the Federal troops were in arms all last night, but they offered no protection to this consulate. On the American side United States troops were on guard to stop passage of revolutionists. What steps must be taken in case consulate is threatened and no protection be given me by Federals? Revolutionists probably not numerous enough to attack, but lawless element will probably join for the chance to rob.

GARRETT.

File No. 812.00/1093.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1141.] EMBASSY OF MEXICO,
Washington, March 26, 1911.

EXCELLENCY: The governor of the State of Sonora has reported to the department of foreign relations that several bands of armed filibusters have invaded that State from the northern boundary.

The same department instructs me to bring this fact to your knowledge to the end that, provided you see no objection thereto, you be pleased to make such recommendations as you may see fit to put a stop to the movement of armed groups toward Mexican territory.

I renew [etc.],

F. L. DE LA BARRA.

File No. 812.00/1092.

The Mexican Chargé d'Affaires to the Secretary of State.

The embassy of Mexico has the honor to ask that the Department of State be pleased, if it sees no objection thereto, to recommend to the authorities concerned that the victuals bought in the United States for the town of Ojinaga, Chihuahua, where Gen. Don Gonzalo Luque is in military command, be allowed to go over the new ford that has been opened between Presidio, Tex., and the said town of Chihuahua, by reason of the present circumstances.

EMBASSY OF MEXICO,
Washington, March 27, 1911.

File No. 812.00/1194.

The Confidential Agent of the Provisional Government of Mexico to the Secretary of State.

[Translation.]

No. 3.] CONFIDENTIAL AGENCY OF THE
MEXICAN PROVISIONAL GOVERNMENT,
Washington, March 27, 1911.

EXCELLENCY: I have the honor to transmit to your excellency the notes which I have received from Francisco I. Madero, President of the Provisional Government of Mexico and chief of the Mexican insurrection, for delivery to the American Government.

In thus obeying the instructions of the said Provisional Government, I have the honor to express to your excellency the assurances of my highest and most distinguished consideration.

F. VÁSQUEZ Y GÓMEZ.

[Inclosure.]

The Provisional President of Mexico to the Secretary of State.

[Translation.]

GUADALUPE, BRAVOS DISTRICT,
Chihauhua, Mexico, February 15, 1911.

EXCELLENCY: I have the honor to state to your excellency the causes which have imperatively obliged the Mexican nation to take up arms in order to liberate itself from the tyranny of anticonstitutional authorities and to reestablish lawful rule in government and popular sovereignty in the Mexican Republic.

The matter under consideration is a national insurrection, both just and necessary, inasmuch as the people of Mexico have vainly exhausted legal and pacific measures, first, to vote freely in elections and afterwards to denounce and set aside the scandalous electoral fraud which had been committed; patriotic, because it has no other purpose than the reestablishment of the constitutional régime; and finally, necessary, because for many years justice has not been meritoriously administered, so that the Mexican nation has been forced to exist without the benefit of the guaranties accorded it by law.

The causes of the insurrection being as stated, the Provisional Government trusts in the sentiments of humanity and justice which guide the conduct of all civilized peoples to obtain the sympathy which at all times struggles for justice and liberty have inspired.

The Provisional Government of the Republic will, at the proper time and in due form, take steps to secure just recognition from the Government of your excellency, but in the meantime permit me to call your excellency's attention to the following points and statements:

A. The leaders of the national insurrectionist forces have been strictly and precisely directed to take careful heed that during the conflict the laws of war be observed, equally in matters directly connected with it and in everything relating to neutrality and the guaranties accorded the ambulance service or the Red Cross of both sections of the belligerents, as well as the persons and properties belonging to neutral foreigners.

B. The Provisional Government recognizes and indorses all existing international treaties entered into between Mexico and foreign powers prior to November 30, 1910. It also recognizes and will respect all obligations contracted by the Mexican Government with corporations or individuals previous to November 30, 1910.

C. From the time of its official recognition by the Government of a nation, the Provisional Government in the name of the Mexican Republic will be responsible for damages and injuries direct or material occasioned by the war to the citizens or subjects of that nation, both in their persons and the enterprises which they operate in the country. This guaranty will become effective from the day in which the belligerency of the insurrectionist forces is recognized.

D. In the maritime and frontier customhouses occupied by the Provisional Government documents issued by the consular bureaus of the usurping Government will not be recognized and in order to reduce the hindrances which war may cause to commerce, the Provisional Government will at the proper time designate consuls, vice-consuls, or consular agents wherever necessary and, if this be not feasible, will appoint agents with special instructions in the customhouses and ports under the jurisdiction of the Provisional Government, in order that after a careful inspection of the respective documents they may permit the entry of merchandise coming from foreign friendly countries.

E. The triumph of the national insurrection is assured, for it has secured the aid of the whole Mexican nation. Consequently there is every reason to believe that the war in the Mexican Republic will be of short duration, and that at an early date, in accordance with the Plan of Insurrection and in deference to the precepts of the Federal Constitution for whose reestablishment the struggle is carried on, the nation will be called upon to effect completely free elections by virtue of which the said constitutional régime may be restored.

F. Although the usurping Government has endeavored to represent the national insurrection as a movement of small significance and of a simply predatory character, facts have demonstrated fully that such is not the case and that it is really a general insurrection throughout all the districts of the country. The usurping Government has further demonstrated its absolute powerlessness not only to crush it out entirely or even to control the growing popular

movement which decidedly supports the Provisional Government. Foreign residents in the regions occupied by the insurrectionists forces have had no cause for complaint or claims against the unlawful acts of the insurrectionists whose conduct has unanimously indicated humanity and respect for private property. The leaders of the insurrection have known how to energetically repress evry indication of abuses undertaken by private individuals not connected with the conflict who thought to avail themselves of the abnormal circumstances for personal and illegal advantage.

With the foregoing observations, I have the honor to inform the illustrious Government worthily represented by your excellency that the interests and persons of its citizens have been and will continue to be protected by the Provisional Government over which I have the honor to preside, and by the military leaders of the national insurrection.

I present [etc.],

FR. Y. MADERO.

File No. 812.00/948.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 444.] DEPARTMENT OF STATE,
Washington, March 27, 1911.

EXCELLENCY: In further reply to your note of the 3d instant communicating to the Department a report that 400 of the Springfield rifles held at San Diego by the United States had been sold for use by persons intending to invade Lower California, I have the honor to inform you that the Department is advised as follows by the War Department, to which a copy of your note was transmitted:

The Government has no store of rifles at or near San Diego other than those in the hands of two companies of Coast Artillery stationed at Fort Rosecrans, California. I might also state that for the past two years the Government has made no sales of arms to dealers. It would therefore appear that the arms referred to by the Mexican consul at San Diego must be other than those owned by the United States Government.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1066.

The Secretary of State to the American Consul at Nuevo Laredo.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 28, 1911.

The Department has repeated your telegram to the embassy with instruction to demand, for yourself and American citizens at Nuevo Laredo, full and adequate protection, and you should make a like demand upon the local authorities. If it should appear that protection by the Mexican authorities will not be afforded and that the lives of yourself and other Americans are in danger, it is the belief of the Department that the most practical thing to do would be to cross to the American side of the river.

KNOX.

File No. 812.00/1262.

The American Ambassador to the Secretary of State.

No. 433.] AMERICAN EMBASSY,
Mexico, March 28, 1911.

SIR: With reference to the Department's telegraphic instructions of the 16th instant in the matter of the suspension of constitutional

guaranties in this country, in which the embassy was instructed to express to the Mexican Government the hope that American citizens who might be taken as participants in the insurrection will be treated in each case according to the principles of justice, equity, and humanity, and the provisions of international law, I have the honor to inclose to the Department herewith copy of note written in pursuance of these instructions on the 17th instant, and copy of a note from the foreign office No. 30090 of the 24th instant, which I have just received from the foreign office in reply to the embassy's note, as the foreign office states at some length and with precision the course which the Mexican Government proposes to follow in dealing with the revolution, with especial reference to the case of foreigners who may be implicated in it.

I have [etc.],

HENRY LANE WILSON.

[Inclosure 1.]

[This inclosure is a copy of note 157 of March 17, of the American chargé d'affaires to the minister for foreign affairs, the text of which is identical with the Department's telegraphic instruction of March 16 (see above). File No. 812.00/973A.]

[Inclosure 2.]

The Minister for Foreign Affairs to the American Ambassador.

[Summary.]

No. 30090.] FOREIGN OFFICE,
Mexico, March 24, 1911.

[This note, replying to the American ambassador's No. 157, maintains the justice of the application of the restrictions resulting from the suspension of guaranties not only to natives but also to foreigners, and says that the power of such suspension is a constitutional one, with the exercise of which no foreign government is concerned. It is further contended that this application of martial law as against those guilty of such crimes as wrecking trains, dynamiting bridges, kidnapping for ransom, is necessary for the protection of foreigners resident in the country. There is also inclosed with the note a copy of the decree suspending guaranties, and also a copy of the letter transmitting said decree to the governors of States. In this letter of transmission the warning is given to carry out the provisions of the decree with the utmost prudence, in order that no further end might be attained than that of security and justice. The decree itself suspends the constitutional guaranties for the persons committing, in general, any act impeding the operation of railroads, telegraph or telephone lines, or installation for the transmission of electric power, kidnappers, highway robbers, robbers with violence "in solitary places or by means of an attack upon a town or country estate." The penalty of death is prescribed for all these crimes except those in connection with telegraph and telephone lines and electric wires, which are punishable with the penalty of 5 to 12 years in prison, and the last-mentioned class of robbery; and these crimes also are punishable with death if they are carried out on the public road and accompanied with the crime of homicide or of incendiarism. It is provided further (art. 4) that upon those captured in the act of committing crimes for which capital punishment is prescribed such punishment may be summarily inflicted without any other requirements than that the chief of the force capturing them shall formulate a record of the case. Other persons accused of the crimes specified are to be given a summary and verbal trial by the authorities, military or civil, which have captured them, sentence to be pronounced within eight days after the trying authorities assume charge of the case. Such sentences are to be carried out with no other appeal than an application to the President for pardon.]

File No. 812.00/1129.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 446.] DEPARTMENT OF STATE,
Washington, March 28, 1911.

SIR: I have the honor to acknowledge the receipt of Ambassador de la Barra's note No. 1138 of the 25th instant, in which he states that the Mexican Government will probably need to pass some supplies intended for Gen. Luque, at present at Ojinaga, Chihuahua, by way of Presidio, Tex., and he requests that the appropriate instructions be given by this Government, in order that the operation may be carried out promptly and easily.

As pointed out in the Department's memorandum of March 23, 1911, the Department "does not perceive, either in the principles established by the so-called neutrality statutes of the United States or by the rules of international law governing this class of transactions, anything that would, under the circumstances of this case as understood by the Department, prohibit the commercial purchase within and shipment from the territory of the United States by private agents of provisions and fodder for the Mexican troops at Ojinaga, Chihuahua."

It is understood by this Department that supplies purchased as set forth in the above-quoted memorandum may be imported into Mexico by way of Presidio, Tex. In order, however, that there may be no question about this matter, the Department has copied your inquiry to the Treasury Department, with a request that an immediate reply thereto be made.

Accept, etc.,

P. C. KNOX.

File No. 812.00/1023.

The Secretary of State to the Mexican Chargé d'Affaires.

The Department of State has received the Mexican Embassy's memorandum of the 18th instant, stating that, according to information in the embassy's possession, the I. C. Hirsch Iron, Steel & Rail Co., of Cincinnati, Ohio, is prepared to sell, and has received offers for, certain rifles and cartridges in its possession.

The Department of State is constrained again to repeat the statement, already frequently made, that commercial trading in arms and ammunition is not a violation either of the international rules governing neutrality or of the provisions of the so-called neutrality statutes of the United States, and that this Government is utterly unable, under its Constitution and laws, to take any action whatsoever in connection with such transactions, unless and until a violation of law occurs. The embassy's memorandum has, however, been copied to the Department of Justice in order that that department may observe the supposed transaction if consummated, with a view to preventing violation of any of the laws of this Government.

In this connection the Department of State desires to call to the embassy's attention the fact that the information possessed by it goes

to show that a considerable and perhaps the greater number of insurrectos are armed with Mauser rifles and not with American rifles.

DEPARTMENT OF STATE,
Washington, March 29, 1911.

File No. 812.00/1210.

The American Ambassador to the Secretary of State.

[Extract.]

AMERICAN EMBASSY,
Mexico, March 29, 1911.

MY DEAR MR. KNOX:

[The first paragraph consists of military information.]

The anti-American sentiment in the country, which was so rampant in most parts of the Republic prior to and following the anti-American riots, seems to me to have either subsided or become latent since the issuance of the President's orders relative to military disposition on the international boundary. This event produced an apparently salutary effect in bringing the Government to a realizing sense of its responsibilities, and those people who are not active revolutionists to a sobering appreciation of the gravity of the situation. There has been less anathema, less use of violent adjectives, and while a considerable portion of public opinion inclines to the belief that our military activity is due to a desire to discharge our international obligations, there is another portion which adheres to the opinion that we are moved solely by the obligation of affording protection to the lives and property of our nationals should chaotic conditions eventuate. I have not been able to detect anywhere the existence of an opinion that our actions have been dictated by ambition or the desire for national aggrandizement. There is no such opinion existing among the serious minded people of Mexico.

For the present, I do not believe that American lives and property outside of the revolutionary zone are in danger. but what might happen in event of collisions on the border or an appearance of aggression it would not be safe to conjecture. A large number of Americans, principally women and children, have crossed the border and more are leaving every day.

[The rest of the dispatch consists of the ambassador's opinion of the probable ability of the new cabinet to cope with the situation, and his belief that the revolution is as much directed against President Díaz personally as against "those evil influences that have stood in the background."]

I am [etc.],

HENRY LANE WILSON.

File No. 812.00/885.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 467.] DEPARTMENT OF STATE,
Washington, March 29, 1911.

SIR: I beg to acknowledge the receipt of Señor de la Barra's note No. 1018 of the 6th instant, in which he calls attention to the in-

creased activities of the revolutionary sympathizers on the American side of the border, and states that the Mexican embassy is of the opinion that the Government of the United States would greatly assist by issuing some recommendation of a general public character that the Federal authorities should take vigorous measures against the movement of which the ambassador speaks.

In reply you are informed that it is hoped that the measures which were taken on the same date as the ambassador's dispatch will have a beneficial result.

With respect to that portion of the ambassador's note in which he speaks of the interview between Capt. C. S. Babcock, of the United States Army, and Simon Bertholdt, I have the honor to inform you that in a telegraphic report dated the 14th ultimo, made to Gen. Bliss, commanding general, Department of California, and communicated by him to the War Department, Capt. Babcock says:

> With my permission and under an armed cavalry escort, commanded by Lieut. Lininger, Simon Bertholdt, unarmed, was brought from border to cavalry camp last Saturday. This was done to enable me personally to explain to him my orders covering enforcement neutrality laws. After 10 minutes' conversation he was escorted back to boundary. Leyva has never openly crossed boundary and Bertholdt only once, as described.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1143.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *March 30, 1911.*

This embassy has received a note from the Italian minister asking what will be the attitude of the Government of the United States as to the application to our nationals of the suspension of constitutional guaranties by the Mexican Government.

WILSON.

File No. 812.00/1143.

The Secretary of State to the Mexican Chargé d'Affaires.

Referring to the conversation between his excellency the Italian ambassador and the Acting Secretary of State on March 21 last, the Department of State has the honor to state that it has to-day received from the American ambassador at Mexico City a telegram announcing the fact that the royal Italian minister at that capital has addressed to him a note asking to be informed what the attitude of the Government of the United States will be relative to the suspension of the constitutional guaranties by the Mexican Government with regard to its application to American citizens. The Department of State believes, under the circumstances, that it is advisable to furnish the royal Italian embassy with the contents of a communication made by the American Embassy at Mexico City to the Mexican minister for foreign affairs, in pursuance of the cabled instructions of this Department, which reads as follows:

[Here follows the complete text of the instructions to the American chargé d'affaires, dated March 16, 1911; see above.]

DEPARTMENT OF STATE,
Washington, March 31, 1911.

File No. 812.00/1076.

Referring to the memorandum of the Embassy of Mexico, of the 20th instant, requesting that appropriate instructions be issued to the United States attorney for Arizona concerning the hearing involving certain persons accused of having crossed the international boundary and attacked Saric and other places in Mexico, the Department of State has the honor to inform the embassy that it is advised by a letter of the 25th instant from the Department of Justice, to which the correspondence was communicated, that copies thereof have been forwarded to the United States attorney for Arizona for consideration and such action, if any, as may be practicable.

DEPARTMENT OF STATE,
Washington, March 31, 1911.

File No. 812.00/1143.

The Secretary of State to the American Ambassador.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 1, 1911.

Your March 30, 7 p. m. An aide mémoire was handed to the Italian ambassador and copies sent in notes to the British, French, and German ambassadors containing the text of the note to the minister for foreign affairs from Mr. Dearing, in pursuance of Department's March 16.

KNOX.

File No. 812.00/1132.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 471.] DEPARTMENT OF STATE,
Washington, April 3, 1911.

SIR: Referring to the Department's note No. 446, of the 28th ultimo, on the subject of the probable need of the Mexican Government to pass, by way of Presidio, Tex., some supplies intended for Gen. Luque, who was then at Ojinaga, Chihuahua, I have the honor to inform you that the Department is in receipt of a telegram, dated the 30th ultimo, from the Secretary of the Treasury, in which he states that he has instructed the collector of customs at Eagle Pass, Tex., by telegraph, to permit ordinary supplies to cross the river into Mexico at a ford outside the port of Presidio, Tex., under the supervision of an American customs officer and under the collector's official direction. The collector was further instructed to take action immediately and to inform the Treasury Department definitely what he did.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1193, 1202.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *April 3, 1911.*

Last night a communication from Madero was received here saying the revolutionists will be satisfied only with the retirement of Diaz and a new election. The continuing seriousness of the situation here and the chaos that would follow the overthrow of the constitutional authorities, greatly augmenting the existing danger to American lives and property, confirm the wisdom of President Taft in taking military precautions which are due our nationals in foreign countries, due allowance being made for the dignity and sovereignty of a friendly State.

Mr. de la Barra to-day expressed both the President's and his own satisfaction with the attitude of the American Embassy. He expected a marked improvement within three days, and that very soon he intended to go before Congress and present four measures of reform: (1) A law prohibiting reelection to the presidency; (2) reform of the judiciary; (3) local autonomy; (4) division of great landed estates.

I told Mr. de la Barra how difficult it had been to deal with the Mexican foreign office during the last four months, due to the reflection of the anti-American public opinion. He assured me there would be no cause for complaint in the future. We agreed that I should present to him a memorandum of all urgent cases. Earnest cooperation for their solution was promised.

WILSON.

File No. 812.00/1047.

The Secretary of State to the Mexican Chargé d'Affaires.

Memorandum.

Referring to the memorandum of the Embassy of Mexico of February 16, 1911, in regard to newspaper reports that one Richard Ferris was organizing a force in California to invade Mexican territory, the Department of State has the honor to say that it is informed by the Department of Justice that the information obtained by its agents indicates that Ferris has not, in fact, had any intention of participating in a movement against Mexico, and that he is only seeking notoriety.

DEPARTMENT OF STATE,
Washington, April 5, 1911.

File No. 812.032/3

The American Ambassador to the Secretary of State.

No. 434.] AMERICAN EMBASSY,
Mexico, April 5, 1911.

SIR: I have the honor to transmit to the Department herewith * * * the Spanish and English text of the message of President

Diaz to Congress, delivered on the occasion of the opening of Congress on the evening of the 1st instant.

I have, [etc.],

HENRY LANE WILSON.

[Inclosure.]

Message of President Diaz to the Twenty-fifth Congress, second session, April 1, 1911.

[Extracts translated from the Diario Oficial, covering all references to the revolution and to the political relations with the United States.]

GENTLEMEN OF THE CONGRESS: I am very glad to appear again in the discharge of a constitutional duty and give you an account of the progress of the administration.

Our relations with foreign countries continue friendly and cordial.

A group who at the recent elections presented candidates for the presidency and vice presidency of the Republic, without having polled more than a small minority of the votes, not limiting their action to the legitimate exercise of popular suffrage that they proclaimed, resorted to arms when the elections were over, disturbing the peace enjoyed for long years in this country. The leaders of the group sought, by activities conducted on foreign as well as on Mexican soil, to organize a general revolutionary movement to break out on a prearranged date.

FOREIGN AID FOR REBELS.

The protection of the mountains and the effective cooperation in men and war supplies—received from foreign parts as well as from the group of Mexicans who have for years conspired not only against the present Government but against all social order—easily explain how the revolt has kept extending through almost the whole State of Chihuahua, and to several points in Sonora and Durango, in spite of the efforts to limit it made by the Federal Goverr ment and those of the States mentioned.

BANDITS.

At the same time, unfortunately, and not only at those places but also at other points in the country, numerous bands have sprung up without any political motive and animated solely by a spirit of banditry which has begun to develop afresh and is spreading through the country greater terror, perhaps, than was caused by those that started the revolt.

AMERICAN FILIBUSTERS.

In Baja California another sort of movement began, caused by groups of communists among whom are many American filibusters, with the fantastic project of forming a Socialist State. So unspeakable a purpose must provoke the greatest indignation in the country, and I am sure that if necessary the Mexican people, always patriotic and jealous of their autonomy, will hasten to the defense of national territory. * * * [Tribute to the army.]

AMERICAN ARMY MANEUVERS.

Some time later there was an extraordinary concentration of American forces on the frontier. The Executive, as was his duty, instructed his ambassador at Washington to request an explanation of the maneuver. The instructions crossed a message from President Taft in which, of his own accord, he gave assurances that the concentration had no significance that might cause alarm to the neighbors to the south, friends of the United States. The withdrawal of the ships which that Government had mobilized in the two oceans, and the fact that the Army is about to conduct some maneuvers, are the best testimony to the sincerity of those assurances, which have been repeated on subsequent occasions. * * *

THE PLATFORM OF PRESIDENT DIAZ.

Gentlemen of the Congress, it might be inferred from the data as to public administration in its various departments contained in the foregoing message that notwithstanding the revolt—started in an evil hour by a group of Mexicans who are either laboring under lamentable misconceptions or have been grossly deceived—the country has kept on progressing economically and intellectually up to the beginning of the present year, but in truth such progress is now obstructed by the political situation that has been developing and which demands—of the Government and of the sensible mass of the Nation each in its own sphere—the greatest solicitude and the most strenuous efforts to apply some prompt and efficacious remedy.

Recent expressions of public opinion on various questions of governmental policy have attracted general attention; the Executive therefore thinks it fitting to make known the measures which he believes ought to be taken, and the views by which he will be guided in his endeavor to warrant the confidence that the country has reposed in him.

CHANGES OF MINISTRY.

The change of ministry just effected aims, for example, at satisfying in practice one very general aspiration, which is that the political personnel be renovated from time to time. If I have not hesitated to part with the services of capable, loyal and honest advisers, who for a greater or less length of time had given me their valued cooperation, my single aim has been to set a precedent of not carrying on the Government indefinitely with the same cabinet, however high may be the merits of the persons composing it, and to show that room should be made, from time to time, for new energies in the direction of public affairs.

CORRECTION OF LOCAL ABUSES.

Furthermore, measures will be taken that will demonstrate a firm purpose to give heed to reasonable complaints that are made against some of the authorities, especially those who are in closest touch with the people. It is to be hoped that in this policy the Federal Government will be seconded by the Governments of the States, which, by reason of the administrative instrumentalities depending on them, are better able to remedy the evil in question.

NO REELECTION.

The principle of no reelection for executive functionaries, chosen by popular suffrage, had not of late been broached in any legislative assembly of the republic, and for that reason the Federal Executive had not thought proper to express an opinion as to a question which, by its nature, falls within the province of those assemblies; but seeing that the issue has recently been brought up in some of the State legislatures and has also been discussed in the press, the executive takes this occasion to manifest his hearty assent to the principle in question and to declare that if a bill is brought before Congress providing for the periodical renovation of the functionaries referred to, the administration will give to such measure its earnest support.

ELECTORAL REFORM.

Intimately bound up with the adoption of the principle of no reelection is the question of the reform of the electoral laws, for inasmuch as the long continuance in power of certain functionaries is believed to be in part attributable to the defects of those laws, it is indispensable without delay to amend them, in order to insure the effective participation of those citizens who are considered capable of voting with a full consciousness of what they are doing.

DIVISION OF LARGE ESTATES.

In view of the not very satisfactory results of the measures hitherto taken to bring about the division of large rural estates on terms that would be fair to all concerned, so as to render those estates available for tillage, the executive is determined to find means for carrying out this important project in the most efficient manner possible.

INDEPENDENCE OF THE JUDICIARY.

At different times endeavors have been made to introduce reforms in the administration of justice in the Federal courts and in the local courts of the Federal district and the Territories, and these endeavors alone suffice to demonstrate the importance which the executive attaches to the improvement of this vital function. At the same time the executive is not unaware that much remains to be done to complete the work and to correct the defects which observation brings to light and public opinion points out. The various measures which it is proposed to introduce after a mature and minute consideration of all the elements of the problem will aim fundamentally at insuring more effectively the independence of the judiciary by securing a more select personnel and lengthening their term of office, while another object of the measures in question will be to render more stringent the responsibilities of judicial functionaries, by providing really efficacious forms of procedure for bringing them to account for malfeasance.

AN APPEAL TO PATRIOTISM.

In carrying out all these reforms, which constitute a task of uncommon magnitude, the executive trusts that the colegislative chambers will now, as they have ever done, give him their invaluable support and will bring their ripe experience to the consideration of these arduous problems.

At the same time the executive appeals most earnestly to the patriotism and good judgment of the Mexican people, trusting that on this occasion, as on many others, they will prove equal to the task of extricating the Republic from the difficulties by which it is surrounded and maintaining unimpaired the ideals of progress and civilization which have won for our country so high a place in the esteem and respect of other nations.

File No. 812.00/1239.

The Mexican Chargé d'Affaires to the Secretary of State.

[Memorandum—Translation.]

No. 1202.]

The Government of Mexico knows that there are in the frontier department of the Douglas station in Arizona arms and ammunition ready to be exported without express consignment.

In obedience to its instructions the embassy brings the fact to the knowledge of the Department of State for all pertinent purposes, and duly extends its thanks in advance for such measures as this Government may see fit to direct in the matter.

EMBASSY OF MEXICO,
Washington, April 6, 1911.

File No. 812.00/1097.

The Secretary of State to the Mexican Chargé d'Affaires.

DEPARTMENT OF STATE,
Washington, April 6, 1911.

No. 473.]

SIR: Referring to the embassy's note of the 16th ultimo, communicating to the Department a report that Mexican insurgents intended to disguise themselves as soldiers of the Mexican Federal Army and fire on American soldiers on duty near the frontier, I have the honor to inform you that I am advised by the Department of Justice, to which the information contained in the above mentioned note was

transmitted, that a copy of the note will be furnished to officers of the Department of Justice in Texas.

Accept [etc.],

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 812.00/1096.

DEPARTMENT OF STATE,
No. 475.] *Washington, April 6, 1911.*

SIR: Referring to the embassy's note of the 23d [1] ultimo, communicating to the Department the substance of an official report that persons on the American side of the Rio Grande fired on Mexican forces near Ciudad Juarez on February 7 last, I have the honor to inclose herewith a copy of a letter from the Department of Justice, to which a translation of the above-mentioned note was transmitted, stating that officers of that department will be instructed to make an investigation, and requesting more specific information regarding the matter.

It will afford this Department pleasure to transmit to the Department of Justice the information asked for.

Accept, etc.

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 812.00/1234.

The American Ambassador to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Mexico, April 6, 1911—7 p. m.

I have official and trustworthy information that position of command of Gen. Luque besieged by rebels at Ojinaga is serious as supplies are practically exhausted, and War Department is concerned as to how additional supplies may be sent, it being pointed out that to send six or seven hundred men from Chihuahua would take at least seven days of forced marches and men would be so incumbered they could not repel attack. Department also loath to reduce force at Chihuahua shows considerable uneasiness as to the general situation and has been considering the eventual necessity for calling out 20,000 reserves, drawing upon the war fund, said to be 18,000,000 pesos, for expenses, in case peace negotiations in progress fall through. Informant regards this as grave and believes it would lead to a long and bloody campaign.

It is complained that rebels continue to receive large supplies of food and ammunition from across Texas border, and is declared that their military operations could be brought to an end in one month if this source were rendered unavailable.

WILSON.

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[1] Should be 16th; the Department's acknowledgment is dated the 23d.

File No. 812.00/1330.

No. 437.] AMERICAN EMBASSY,
Mexico, April 6, 1911.

SIR: With reference to the Department's telegraphic instructions of the 28th ultimo regarding the protection of the American consul and consulate at Nuevo Laredo, I have the honor to advise the Department that I have just received a note from the Mexican foreign office stating that telegraphic orders have been given to afford the consul and the consulate under his charge the necessary protection.

I have, etc.,

HENRY LANE WILSON.

File No. 812.00/1081.

The Secretary of State to the Mexican Chargé d'Affaires.

Referring to the memorandum of the Embassy of Mexico of the 20th ultimo and subsequent correspondence regarding the purchase in the United States by private agents of supplies for Gen. Luque's command at Ojinaga, the Department of State has the honor to inform the embassy that it has received from the Secretary of the Treasury, to whom copies of the correspondence were sent, a letter in which he states, in substance, that the Treasury Department has not prohibited the ordinary exportation of supplies across the Rio Grande, but has only enforced the regular and usual requirements that exportations and importations be made through the established customs ports.

DEPARTMENT OF STATE,
Washington, April 7, 1911.

File No. 812.00/1069.

Referring to the memorandum of the 20th ultimo, in which the Embassy of Mexico stated that the authorities at Del Rio had stopped a shipment of arms and ammunition intended for Mexican insurgents, the Department of State has the honor to say that it is informed by the Attorney General, in a letter dated March 25, 1911, that he is bringing the case to the attention of the appropriate United States attorney and is instructing him to investigate the matter and to take such proceedings in the premises as may be warranted by law.

DEPARTMENT OF STATE,
Washington, April 7, 1911.

File No. 812.00/1261.

The Mexican Chargé d'Affaires ad interim to the Secretary of State.

[Translation.]

EMBASSY OF MEXICO,
No. 1210.] *Washington, April 7, 1911.*

EXCELLENCY: The ambassador of the United States to Mexico has applied to my Government asking protection for the consul at

Laredo, Tamaulipas, and the American citizens residing in that city, no doubt on account of some rumor of impending trouble.

The department of foreign relations this day informs the embassy that perfect peace prevails at Nuevo Laredo and that there is no apprehension of any attack by the rebels, unless it should come from the territory of Texas, for which reason it instructs me to bring this to your excellency's knowledge and to ask that, if there be no objection thereto, you may be pleased to issue your orders calculated to prevent armed groups of Americans or Mexicans from crossing into the vicinity of Laredo from Texas, if there should be any filibustering expedition contemplated; no information to that effect, however, has reached the Government of Mexico.

I take [etc.],

CARLOS PEREYRA.

File No. 812.00/1093.

The Secretary of State to the Mexican Chargé d'Affaires.

DEPARTMENT OF STATE,
Washington, April 7, 1911.

No. 447.]

SIR: I have the honor to acknowledge the receipt of the embassy's note of the 26th ultimo, stating that the governor of Sonora has reported that armed bands have invaded that State from its northern boundary, and communicating to the Department a request of your Government that steps be taken to prevent the movement of such armed groups toward Mexican territory.

Copies of your note have been sent to the War Department and the Department of Justice.

Accept [etc.],

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 812.00/1239.

The Secretary of State to the Mexican Chargé d'Affaires.

In compliance with the request contained in the memorandum from the Mexican embassy dated the 6th interest, that pertinent measures be taken by the Government of the United States relative to the report that there are arms and ammunition at the frontier department of the Douglas station, in Arizona, ready to be exported without express consignment, the Department of State has transmitted copies of the translation of the Mexican embassy's memorandum to the Attorney General and to the Secretary of War.

DEPARTMENT of STATE,
Washington, April 8, 1911.

File No. 812.00/1257.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

An assault was recently made by a Mexican between Marfa and Presidio, Tex., upon a Government courier, who fortunately managed to escape unscathed.

This courier is to carry money intended for Gen. Luque at Ojinaga, Chihuahua, for the needs of the garrison, over the road from Marfa to Presidio, Tex.; and as he is not permitted to carry arms for his safety and defense the department of foreign relations instructs me to bring the foregoing to the knowledge of the Department of State and to ask at the same time that measures be taken for the adequate safety of that courier, whose danger is made greater by his carrying money.

The embassy of Mexico will be grateful to the Department of State for the orders it may be pleased to issue in that sense.

EMBASSY OF MEXICO,
Washington, April 8, 1911.

File No. 812.00/1258.

The Mexican Chargé d'Affaires to the Secretary of State.

[Translation.]

No. 1218.] EMBASSY OF MEXICO,
Washington, April 8, 1911.

EXCELLENCY: Gen. Don Gonzalo Luque has experienced difficulties in receiving ammunition at Ojinaga, Chihuahua, due to the fact that some subordinate authority of this country, probably through an erroneous interpretation of the laws of the United States, prevents the transit of articles intended for military operations in our country for the national army.

The department of foreign relations believes this prohibition to be wholly foreign to the views and purposes of the Government of the United States and instructs me so to inform your excellency and to ask, as I do, as urgently as the case demands, that suitable orders be sent for the information of the authorities who hinder the free transit of ammunition purchased in the territory of the United States by agents of the Government of Mexico.

My Government hopes that the Government of this country, animated as it is by the most benevolent sentiments, will take into account the grave difficulties of the commander of the garrison at Ojinaga, to which the Embassy of Mexico has referred in some previous note, to order measures that will remove the obstacles herein referred to.

I take, etc.,

CARLOS PEREYRA.

File No. 812.00/1284.

No. 1219.] EMBASSY OF MEXICO,
Washington, April 9, 1911.

EXCELLENCY: The authorities of the State of Chihuahua report to the Federal Government the constant passing of men and war material from El Paso, Tex., to Guadalupe. The activities of the disturbers of the peace have lately assumed such proportions that it is feared that Ciudad Juarez may be attacked by the organization recently formed around that place.

The Government of Mexico, appreciating to its value the very efficacious cooperation of the Government of the United States for the prevention of public disturbances in our country by groups that would not organize except for the means they expect to find in American territory, calls, through this embassy, the attention of the Government of the United States to the necessity of establishing a stricter vigilance at El Paso, because it knows that foremost of the purposes of this Government is that to repress filibustering severely and to prevent sympathizers and associates of the Mexican rebels from finding facilities for their schemes against established order.

Having thus complied with my instructions, I avail myself of this opportunity to offer to your excellency the assurances of the most profound gratitude for the benevolent attention you have always and are still giving to a matter which bears upon physical and moral interests very worthy of the care both Governments bestow upon them.

I express, etc.,

CARLOS PEREYRA.

File No. 812.00/1285.

[Memorandum—Translation.]

Gen. Luque reports from Ojinaga, Chihuahua, that on the 7th of this month, at 9.30 a. m., four volleys were fired upon his soldiers by individuals from behind breastworks on American territory. It is believed that the authors of this outrage were rebels and that they crossed the river in front of San Francisco, where it took place.

There are witnesses who may supply the authorities of Presidio, Tex., with all the information in case of an investigation.

The embassy hastens to bring the foregoing to the knowledge of the Department of State for all pertinent purposes and thanks it in advance for such directions it may see fit to give in the matter.

EMBASSY OF MEXICO,
Washington, April 9, 1911.

File No. 812.00/1266.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, April 10, 1911.

Vice President Corral has been granted leave of absence for eight months by Congress, and he will depart for Europe within a few days. As he did not resign the situation is further complicated. [Revolutionist attacks reported.] The governors of most of the Mexican States and their subordinates are being replaced.

WILSON.

File No. 812.00/1057.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 479.] DEPARTMENT OF STATE,
Washington, April 10, 1911.

SIRS: Referring to the Department's note of March 9, relative to the report that, on February 7 and 8 last, Mexican troops deliberately fired on American troops who were patrolling the American side of the Rio Grande in order to prevent any violation of the neutrality laws, wounding a boy and a pack horse, I have the honor to inclose herewith a copy of a letter, dated the 23d ultimo,[1] from the Attorney General, transmitting a telegram received by him from the United States marshal for the western district of Texas, stating that the latter's deputy at Presidio, Tex., had telegraphed him that on the 22d ultimo American soldiers patrolling the river above Presidio were fired upon by Mexican soldiers and compelled to seek shelter for safety.

The Department finds itself under the necessity of again asserting that, the facts in this case being as stated, the firing upon American troops on the American side of the border by the Mexican troops on the Mexican side constitutes a most grave violation not only of the principles of international law and of the sovereignty of the United States, but also of that traditional friendliness which exists between the Governments of the United States and Mexico. Moreover, as this Government has been compelled heretofore to remark, it feels that while it must assume that the soldiers in question acted in this case not only without authority but in disobedience and defiance of what must have been their positive orders, yet it also feels that it can not overlook the incident and that it must expect that the Government of Mexico will at once disavow the action and take all steps necessary to make certain that no further acts of this sort shall occur, since, if repeated, they would inevitably lead to collisions between the troops of the two countries which there would be the strongest reasons to deplore.

I must emphasize the great potentiality of danger which lies in these seeming repetitions of this offense, and urge upon you the imperative necessity that the Mexican Government immediately take all requisite steps to prevent acts so inconsistent with good will and friendliness.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1258.

No. 480.] DEPARTMENT OF STATE,
Washington, April 11, 1911.

SIR: I have the honor to acknowledge the receipt of your note, No. 1218, of the 8th instant, by which, in accordance with instructions from your Government, you call the Department's attention to the difficulties experienced by Gen. don Gonzalo Luque, of the Mexi-

[1] Not printed.

can Federal Army, in receiving ammunition at Ojinaga, Chihuahua, intended for military operations in Mexico by the Federal Army. You state that the difficulties experienced by Gen. Luque are probably due to a misinterpretation of the laws of the United States by some subordinate official of this Government, who is preventing the transit of articles intended for military operations in Mexico by the Federal Army, and you ask that steps be taken by this Department looking to the removal of the obstacles referred to.

In reply I have the honor to inform you that translations of your note have ben sent to the Secretary of War, the Attorney General, and the Secretary of the Treasury for appropriate action.

Accept, etc.,

P. C. KNOX.

File No. 812.00/1257.

The Department of State is in receipt of the memorandum of the Mexican Embassy, dated April 8, 1911, in which the attention of the Department is called to an assault recently alleged to have been committed by a Mexican upon a messenger employed by the Mexican Government to carry money between Marfa and Presidio, Tex., destined for Gen. Luque, who is at Ojinaga, Chihuahua, Mexico, for the needs of the garrison there, and saying that the Mexican department of foreign affairs instructs the embassy to bring this matter to the knowledge of the Department of State and ask that measures be taken for the adequate safety of the courier.

Under all the circumstances of the case it would appear that the messenger above referred to is engaged in the military service of the Government of Mexico in the matter of carrying funds for the payment and support of Gen. Luque's troops, and, this being true, it appears clear that the Government of the United States could hardly justify participation in the transaction. Should the courier be apprehensive regarding his personal safety he should apply for protection to the local authorities of the State of Texas, who will doubtless render the necessary assistance.

DEPARTMENT OF STATE,
Washington, April 12, 1911.

File No. 812.00/1349.

The American Ambassador to the Secretary of State.

No. 456.] AMERICAN EMBASSY,
Mexico, April 12, 1911.

SIR: Referring to the Department's telegraphic instructions of March 28, 11 a. m., regarding the protection of the United States consulate at Nuevo Laredo, I have the honor to advise the Department that I have been informed by the Mexican foreign office that telegrams have been received from the governor of the State of Tamaulipas and the chief of the military zone in which Nuevo Laredo is situated stating that specific orders have been given for

the protection of the consulate. I am communicating the substance of this dispatch to the consul to-day.

I have [etc.],

HENRY LANE WILSON.

File No. 812.00/1314.

The American Consul at Frontera to the Secretary of State.

[Telegram—Extract.]

AMERICAN CONSULATE,
Frontera (*Received April 13, 1911.*)

Several of the firms and authorities of this part have requested the consulate to receive all their funds. So far I have declined. Must I refuse requests of this nature?

LESPINASSE.

File No. 812.00/1261.

The Acting Secretary of State to the Mexican Chargé d'Affaires.

DEPARTMENT OF STATE,
No. 481:] *Washington, April 13, 1911.*

SIR: I have the honor to acknowledge the receipt of your note, No. 1210, of the 7th instant, in which, referring to the request made by the American ambassador at Mexico City for protection for the American consul at Nuevo Laredo, Tamaulipas, and for American citizens at that place, you state that you are informed by the secretary for foreign affairs that perfect peace prevails at Nuevo Laredo and that there is no apprehension of any attack by the revolutionary forces unless it should come from the territory of Texas. You add that you are instructed to bring the above to the attention of this Department, and to ask that, if there be no objection thereto, appropriate orders be issued looking to the prevention of armed bodies of Americans or Mexicans from crossing into the vicinity of Laredo from Texas if there should be any filibustering expedition contemplated, but that no information that any such expedition is contemplated has reached your Government.

In reply, I have the honor to inform you that translations of your note have been sent to the Secretary of War and to the Attorney General.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.00/1205.

The Secretary of State to the Mexican Chargé d'Affaires.

Referring to the memorandum of the Embassy of Mexico, of the 18th ultimo, stating that it is informed that the I. C. Hirsch Iron, Steel & Rail Co. of Cincinnati has received orders for the purchase of certain arms and ammunition, the Department of State has the honor to inclose herewith, for the embassy's information, a copy of a letter from the Assistant Attorney General, stating that the De-

partment of Justice will have an investigation made with a view to determining whether these articles are likely to be used in military operations against Mexico.

DEPARTMENT OF STATE,
Washington, April 13, 1911.

[Inclosure.]

The Assistant Attorney General to the Secretary of State.

No. 90755-686.] DEPARTMENT OF JUSTICE,
Washington, April 4, 1911.

SIR: I have the honor to acknowledge the receipt of your letter of the 29th ultimo, inclosing a copy of a memorandum from the Mexican Embassy, stating that the I. C. Hirsch Iron, Steel & Rail Co. of Cincinnati, Ohio, is prepared to sell, and has received orders for certain rifles and cartridges in its possession, together with a copy of your reply to the above memorandum.

In reply thereto, you are advised that this Department will have an investigation made with a view to determining whether said rifles and cartridges are likely to be used in connection with an expedition against the Republic of Mexico.

W. R. HARR.

File No. 812.00/1333A.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 14, 1911.

During the fight yesterday at Agua Prieta thousands of bullets struck houses in Douglas, Ariz., jeopardizing the life and property of American citizens engaged in their peaceful pursuits. Two citizens were killed and 11 wounded, including some children. The fighting took place within 10 feet of the boundary, and it is anticipated that there may be more of it at any time.

Inform the Mexican Government immediately that the President feels that urgent and express instructions should be given in order to prevent further jeopardy of American life and property on American territory.

This is the third time that regularly organized Mexican troops have fired into American territory, thereby threatening human life, and you will most earnestly point out that, while the difficulties under which the Mexican Government is acting are appreciated by the President, he would be compelled in self-defense, so to speak, of American lives on American soil, should such incidents recur, to take action which he would desire to avoid by the use of every proper effort.

HUNTINGTON WILSON.

File No. 812.00/1257.

The Secretary of State to the Mexican Chargé d'Affaires.

In its memorandum of the 12th instant, the Department of State suggested to the Mexican Embassy that, should the courier employed by the Mexican Government to carry funds for the needs of Gen. Luque's garrison, at Ojinaga, Chihuahua, along the road

from Marfa to Presidio, Tex., be apprehensive regarding his personal safety, he should apply for protection to the local authorities of the State of Texas, who will doubtless render the necessary assistance.

The Department of State has to-day sent to the governor of Texas a translation of the Mexican Embassy's memorandum of the 8th instant, calling attention to a report that the courier referred to was recently assaulted between Marfa and Presidio, Tex., and a copy of the Department's memorandum of the 12th instant in reply thereto, with the statement that, should the Mexican Government, pursuant to the suggestion made by the Department of State, request the authorities of Texas to take measures to protect the safety of the courier above mentioned, the Department of State trusts that it will be possible for the State authorities to extend such protection to him as the necessities of the occasion appear to demand.

DEPARTMENT OF STATE,
Washington, April 14, 1911.

File No. 812.00/1285.

On April 9 the Mexican Embassy informed the Department of State that Gen. Luque reports from Ojinaga, Chihuahua, that on April 7, at 9.30 a. m., four volleys were fired upon his soldiers by individuals from behind breastworks on American territory, and that it was believed that rebels who had crossed the river in front of San Francisco were the authors of this act.

The Department of State has communicated the Mexican Embassy's memorandum to the Secretary of War and to the Attorney General, for their information and appropriate action.

DEPARTMENT OF STATE,
Washington, April 14, 1911.

File No. 812.00/1335.

The Attorney General to the Secretary of State.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., April 15, 1911.

SIR: I beg to inclose herewith copies of two telegrams received from the United States attorney for the district of Arizona this morning with regard to the situation at Agua Prieta.

Respectfully,

GEO. W. WICKERSHAM.

The United States Attorney to the Attorney General.

[Telegrams—Paraphrase—Extracts.]

[Inclosure 1.]

BISBEE, ARIZ., *April 14, 1911.*

Rebels still in possession custom port Aguá Prieta. Have appointed collector of customs and demanded payment of duties to him. Are such payments legal? Rebel commander advised me this morning they would make every effort to hold port for recognition as belligerents. Wire Bisbee.

MORRISON.

[Inclosure 2.]

BISBEE, *April 14, 1911.*

Authentic information shows rebels engaged federals so that latter necessarily fired in line with Douglas; several shells struck buildings in Douglas and one American citizen killed while performing his duties as brakeman in Douglas; another probably fatally injured under identical conditions; twelve others slightly injured. Others, running from Agua Prieta toward boundary, fired on; firing repeated even after they had lain down, waving handkerchiefs. Rebels reenforced to-day; important battle expected. I think our Douglas detachment should be strongly reenforced. Commanding officer Goujot and I have warned rebels in Agua Prieta that recurrence of firing across line will mean serious trouble with American authorities.

MORRISON.

File No. 812.00/1374.

The Mexican Chargé d'Affaires to the Secretary of State.

No. 1249.] MEXICAN EMBASSY,
Washington, April 15, 1911.

EXCELLENCY: On receipt of the Department's note No. 479 of the 10th instant, Ambassador Zamacona ordered its contents telegraphed to the department of foreign relations.

Awaiting its answer, which will soon come, I hasten to say that the President of the Republic ordered an investigation of the facts so as to establish fully whether there was any criminal intent in the firing which was attended with the deplorable result of wounding a boy on American territory during a battle between the Federal and rebel forces in the beginning of February last.

The embassy realizes the gravity of the facts, but can give assurance that the investigation ordered by the President will be entirely satisfactory, all the more as the Government of Mexico, without prejudging the specific case which has caused the present communications, already declared in Ambassador de la Barra's note of March 14 that the Mexican forces do not harbor any ill feeling toward the forces of the United States which are so efficaciously striving to maintain neutrality.

Once more I renew [etc.],

CARLOS PEREYRA.

File No. 812.00/1459.

The American Ambassador to the Secretary of State.

No. 472.] AMERICAN EMBASSY,
Mexico, April 17, 1911.

SIR: With reference to the Department's telegraphic instructions of April 14 and April 17,[1] regarding the serious consequences that may flow from a repetition of such incidents as those taking place during the fighting at Agua Prieta on the 13th instant, I have the honor to inclose to the Department herewith copy of a note which I addressed to the foreign office immediately upon receipt of the Department's first telegram. * * *

I have [etc.], HENRY LANE WILSON.

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[1] Not printed.

[Inclosure.]

The American Ambassador to the Mexican Minister for Foreign Affairs.

No. 284.] AMERICAN EMBASSY,
Mexico, April 15, 1911.

MR. MINISTER: It is reported to the Government of the United States, through official channels and otherwise, that in an engagement that took place at Agua Prieta on the 13th instant between Federal and revolutionary forces 2 American citizens were killed and 11 wounded, including some children, in Douglas, Ariz. Thousands of bullets struck houses and placed in jeopardy the life and property of citizens engaged in peaceful pursuits. My Government has been advised that the engagement referred to occurred within 10 feet of the boundary line and that further fighting may be expected at any time.

In view of this occurrence I am instructed by my Government to advise your excellency that the President feels that the Mexican Government should send urgent and express instructions to prevent further danger to American life and property on American soil resulting from armed conflicts between governmental forces and forces of insurgents. I am obliged, in the discharge of a painful but necessary duty, to call your excellency's attention to the fact that this is the third time that Mexican Federal troops have fired into American jurisdiction in a manner threatening human life, and that while the President appreciates the difficulties under which the Mexican Government is acting, a recurrence of such incidents will compel him, as the guardian of American lives on American soil, and as a measure of self-defense, to take action of a kind which it is his desire to avoid, and which he has used every effort to avoid.

I avail [etc.],

HENRY LANE WILSON.

The Governor of Arizona to the President.

[Telegram.]

DOUGLAS, ARIZ., *April 17, 1911.*

As a result of to-day's fighting across the international line, but within gunshot range of the heart of Douglas, five Americans wounded on this side of the line. Everything points to repetition of these casualties on to-morrow, and while the Federals seem disposed to keep their agreement not to fire into Douglas, the position of the insurrectionists is such that when fighting occurs on the east and southeast of the intrenchments people living in Douglas are put in danger of their lives. In my judgment radical measures are needed to protect our innocent people, and if anything can be done to stop the fighting at Agua Prieta the situation calls for such action. It is impossible to safeguard the people of Douglas unless the town be vacated. Can anything be done to relieve situation, now acute?

RICHARD E. SLOAN, *Governor.*

File No. 812.00/1441.

The President's Secretary to the Secretary of State.

[Memorandum.]

THE WHITE HOUSE, *April 17, 1911.*

When receiving to-day the minister from Venezuela, the minister from Ecuador, the minister from Colombia and the minister from Costa Rica, the President took occasion to say that he had a very deep concern in the Mexican situation; that this Government hoped

for a speedy termination of the troubles; that the rumors with respect to possible international complications (that is, complications with Japan) were groundless, and that he had not the remotest thought of intervention unless there should happen to be a state of anarchy in Mexico, and that even then he would intervene with great reluctance.

File No. 812.00/1314.

The Secretary of State to the American Consul at Frontera.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 18, 1911.

Your telegram April 13. You should decline positively to receive funds or property of Mexicans or other foreigners. American citizens should not be encouraged to deposit funds and property in the consulate, but they may be received at the sole risk of the owners, provided you state to them officially in writing that this Government will assume no risk for the safety of the property and no obligation for its return. Make them sign a statement that in case of loss they (the depositors) will waive all rights against you or Government.

KNOX.

The President to the Governor of Arizona.

[Telegram.]

THE WHITE HOUSE,
Washington, April 18, 1911.

Your dispatch received. Have made urgent demand upon Mexican Government to issue instructions to prevent firing across border by Mexican Federal troops and am awaiting reply. Meantime I have sent direct warning to the Mexican and insurgent forces near Douglas. I infer from your dispatch that both parties attempt to heed the warning, but that in the strain and exigency of the contest wild bullets still find their way into Douglas. The situation might justify me in ordering our troops to cross the border and attempt to stop the fighting or to fire upon both combatants from the American side. But if I take this step, I must face the possibility of resistance and greater bloodshed, and also the danger of having our motives misconstrued and misrepresented and of thus inflaming Mexican popular indignation against many thousand Americans now in Mexico and jeopardizing their lives and property. The pressure for general intervention under such conditions it might not be practicable to resist. It is impossible to foresee or reckon the consequences of such a course, and we must use the greatest self-restraint to avoid it. Pending my urgent representation to the Mexican Government, can not therefore order the troops at Douglas to cross the border, but I must ask you and the local authorities in case the same danger recurs to direct the people of Douglas to place themselves where bullets can not reach them and thus avoid casualty. I am

loath to endanger Americans in Mexico where they are necessarily exposed by taking a radical step to prevent injury to Americans on our side of the border who can avoid it by a temporary inconvenience.

WM. H. TAFT.

File No. 812.00/1284.

The Secretary of State to the Mexican Chargé d'Affaires.

DEPARTMENT OF STATE,
Washington, April 19, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, in which you advise the Department that the authorities of the State of Chihuahua report to the Federal Government of Mexico the constant passing of men and war material from El Paso, Tex., to Guadalupe, and that it is feared that Ciudad Juarez may be attacked by the organization recently formed around that place.

I have the honor to say in reply that copies of your note have been transmitted to the Attorney General and to the Secretary of War for their information and such action, if any, as they may find it necessary to take in order to secure the proper observance of the neutrality laws of the United States.

As indicated in your note, the Government of the United States has every disposition to secure a rigid observance of the provisions of its laws. In this connection, however, the Department feels that it should again take occasion to invite the embassy's attention to the Department's notes of January 24 and 28 and February 11, 1911, and the aide memoire of March 24, in which it was pointed out that mere commercial trading in arms and ammunition is forbidden neither by the rules of international law nor by the so-called neutrality statutes of the United States, as has been clearly set forth by the Federal courts in the case of The United States *v.* Murphy, to which the Mexican embassy was good enough to direct the attention of this Government in its note of January 24.

I have also the honor again to suggest that the passing of men from the United States into Mexico either singly or in unarmed and unorganized groups, unless constituting an expedition or a part of an expedition fitted out from this country can not be regarded as in violation either of the laws of neutrality or of the provisions of the Federal statutes.

Accept, etc.,

P. C. KNOX.

File No. 812.00/1458.

The American Ambassador to the Secretary of State.

No. 479.] MEXICO, *April 19, 1911.*

SIR: I have the honor to transmit herewith to the Department copy in original and translation of Mr. de la Barra's note of the 17th instant in reply to my note of the 15th which was sent under instructions from the Department.

I have [etc.],

HENRY LANE WILSON.

[Inclosure.]

The Minister for Foreign Affairs to the American Ambassador.

[Translation.]

No. 32556.] MEXICO, *April 17, 1911.*

Mr. AMBASSADOR: I have received your excellency's note of the 15th instant, in which you inform me that by private and official advices you learn that in the engagement at Agua Prieta on the 13th instant between federal and revolutionary forces two American citizens were killed and eleven others wounded, including some children.

Your excellency informs me that in view of this occurrence you have received instructions from your Government to the effect that encounters of this character, which may endanger the property and persons of American citizens in their own territory, should be avoided.

In reply to the note under reference I have to bring to the attention of your excellency that, surely having been badly informed, you indicate to me that it was the federal troops who fired into the town of Douglas, causing the deaths and wounding of which the Mexican Government is the first to mourn. But the truth is that, according to the official information received by this Government as well as according to press reports, the Federal soldiers did not fire at the citizens of Douglas but that the revolutionists—and none the less because there were among them American citizens who wrongfully take part in the affairs of Mexico—were the doers of this clearly punishable deed, and whom the Government will make an effort to punish adequately.

I particularly call your excellency's attention to the contents of the message of John Dean, a citizen of Douglas, the publication of which, according to the press, has been authorized by the United States War Department, and from which it appears that the greater portion of the individuals who formed the forces of López, which took a position parallel to the railroad, are American citizens who are fighting on the side of the Mexican rebels, and that they were precisely the ones that caused the deaths and wounds that your excellency so justly laments.

On the other hand, even supposing that, which has not been confirmed, the Federal soldiers had fired toward the town of Douglas, it would always have been unintentional, since it is known that the Mexican Government wishes to avoid by all possible means a conflict with the United States; a Nation to which it is bound by bonds of sympathy as old as they are strong. Those fatal accidents may be placed among those which your excellency's Government, with sufficient reason, counts as inevitable in the case of an armed conflict and which, for one reason or another, can not form the grounds for claims of any character.

The Mexican Government would deplore it extremely if the American Government, wrongly interpreting the incidents to which I refer, should consider that the Mexican troops had any intention of killing or wounding the peaceful citizens of that country, since, apart from the fact that such a thing is contrary to the elementary rules of law, the notable fact exists that the Federal soldiers did no more than defend themselves from those that attacked them in a town of which they were in possession, and when their enemy's sole aim was, as in reality it always is, to embroil this Government in difficulties with the Government of the United States.

Since this point is under discussion I must indicate to your excellency the surprise with which the President has viewed the circumstance that, according to private information of this department and press reports, individuals of the American Army crossed to the Mexican side, and, not content with this flagrant violation of neutrality (which could be attributed to the confusion that exists with respect to the precise place at which the international boundary begins or ends) persuaded the Federal soldiers to cease defending themselves and, moreover, disarmed them and delivered their arms to the revolutionists at the suggestion of the latter.

There is a very clear case, which I am sure your excellency's Government will know how to punish adequately. During the engagement one of the rebels crossed to American territory with his rifle broken; an American policeman

fixed it for him without delay and the rebel returned to the Mexican side, firing with the gun that he had just received.

Furthermore it appears, according to reliable advices that I have at hand, corroborated by the press reports, that Lieut. Troncoso was wounded by firing from the American customhouse, without definite knowledge as to whether the doers of the deed were rebels in possession of that point or their American sympathizers who happened to be there.

In any event, your excellency, believe me that although on account of its importance the case referred to is a deplorable one—as it has caused the death or wounding of innocent persons and of others who, either as sympathizers with those that attacked the town or as mere spectators, deliberately exposed themselves in the line of fire—such accidents can not justly be attributed to the Mexican soldiers, since in respect to the first mentioned, as I have already said, they were not wounded by our soldiers, and, in respect to the others, they are victims of their own carelessness and curiosity in observing affairs from which it would have been easy for them to have stayed away, rather than of the armed engagement which took place on Mexican territory between Mexican troops and rebels aided by foreigners.

To conclude this point I should bring to your excellency's attention an incident of which official notice has been received by this department. It happened that some days ago the comisario politico of Agua Prieta sought to dig some trenches on Mexican territory with the object of defending the town from a possible attack of rebels. Mayor Gardner, who was then apparently commanding the American troops at that point, spoke to the comisario, telling him that the trenches should not be dug, as their effect would be to draw the fire of the enemy toward the town of Douglas. The comisario, although not considering that Mayor Gardner's observations were reasonable, yet not wishing to proceed without consultation, asked the governor of Sonora for his views, and the governor referred the matter to the departments of gobernación and foreign relations. To-day the press reports state that at exactly the point at which Mayor Gardner prohibited the digging of the trenches, Commander López, chief of the rebels, is digging them, surely causing the same danger to the town and effectively contributing to the difficulties, as these defenses will have to be attacked by artillery, which is the only effective method of destroying them.

It is far from this department to suppose that such things happen with the knowledge of the American Government; but it [this department] is sure that the different departments of that institution are sometimes badly served by inferior authorities, notoriously partial to the rebels and desirous of giving them aid.[1]

At the same time I have the honor to inform your excellency that immediately upon receiving the news that shots had reached American territory in the engagement between the Government troops and the rebels this department informed the war department, so that it might immediately give the commanders of the Federal forces orders that all engagements near the border which might result in damage to the interests, lives, and property of American citizens should be avoided; since, although many of these citizens lend effectual aid to the rebels, and even join them to give them material support, many innocent persons might suffer the consequences of engagements in which they had taken no part. And now, again, notwithstanding the above mentioned incidents, I am repeating to the war department that it should make recommendations to the military commanders in this sense.

I beg your excellency to transmit the contents of this note to your Government, especially those points relating to the abuses committed by the persons to whom I have referred, that it may, as I am sure it will, find means to remedy this abnormal situation; since this department as well as the Mexican Government counts on the respect for law and justice which has been the constant policy of the American Government in its international relations and general policy.

I avail [etc.],

FRANCISCO DE LA BARRA.

[1] "Lejos está de la mente de este Ministerio el suponer que tales cosas acontezcan con conocimiento del Gobierno Americano; pero sí está seguro de que los diferentes departamentos de aquella institución están algunas veces mal servidos por autoridades inferiores, notoriamente parciales a los revoltosos y deseosos de prestarles ayuda."

File No. 812.00/1391.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, *April 20, 1911.*

The Department gave the following to the press to-day:

The Department of State declines to comment upon press telegrams from Mexico on the subject of the reply to the representations of the American Embassy under its instructions of April 14 to call attention to the need for instructions to prevent further danger to American life and property, as in the Douglas incident. Neither the text of the embassy's note nor of the Mexican reply is before the Department. From a brief telegram received from the embassy on the subject[1] it appears that orders have been given through the Mexican war department to prevent firing that might endanger American life and property in Douglas, and that the Mexican Government has expressed itself as deploring the incident in question.

It is inferred from the embassy's telegram that there is some discrepancy between the news which has reached the two capitals as to various particulars connected with the Douglas incident.

You will observe that the Government of the United States is disposed patiently and carefully to minimize the dangerous irritation that might result from failure of the authorities of either country to make clear its true policy and the reciprocal friendship of the two countries, as to which, as far as the United States is concerned, Mexico has recently had so many proofs.

Aside from other considerations, if the Mexican note should be found inconsistent with the principle above set forth, its publication would be a surprise to this Government.

You will be guided by this instruction in your conversation with the minister for foreign affairs.

In regard to your telegram of April 20, noon,[1] you will refrain from giving the press your note.[2]

KNOX.

File No. 812.00/1414.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *April 20, 1911—11 p. m.*

By note received to-day the Mexican Government notifies me that out of respect for truth and justice it wishes you to consider as not included in its reply to the embassy's note of April 15 the paragragh that refers to the crossing of the boundary line by American officers and their causing the Federal troops to cease fighting, since later and official information "tends to show that Capt. Guajot did not cross the boundary line to cause the garrison to surrender."

WILSON.

File No. 812.00/1429.

[Telegram—Extract—Paraphrase.]

MEXICO, *April 21, 1911.*

I saw Mr. de la Barra last night, and after commenting on his speech in Congress he spoke of his entire confidence in the friend-

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[1] Not printed.

[2] See p. 459.

ship of the United States for Mexico and deprecated the possibility of serious complications from the present situation, especially in view of the absence of any intention whatsoever of Mexico to alter its feeling of sincere good will toward us. Both nations, however, had the right, he said, to offer their respective views as to questions in dispute and their reasons therefor. His note of the 17th in regard to Agua Prieta was not meant to do more than this. Mexico is anxious to do everything possible to avoid misunderstandings with the United States. The idea that President Diaz should wish to provoke our resentment in order to escape the consequences of the domestic situation, he said, was absurd. I am inclined to think that the form and tone of the minister's note of the 17th is partly due to hurry and excitement rather than to a spirit of contentiousness.

WILSON.

File No. 812.00/1297.

The Secretary of State to the Mexican Ambassador.

No. 2.] DEPARTMENT OF STATE,
Washington, April 21, 1911.

EXCELLENCY: Referring to Mr. Pereyra's[1] note of the 26th ultimo, stating that the governor of Sonora had reported that armed bands had invaded that State from its northern boundary, and asking that steps be taken to prevent such expeditions, I have the honor to inform you that the Department of Justice, to which Mr. Pereyra's[1] note was communicated, states, in a letter dated April 11, 1911, that the United States attorneys for the districts of Arizona, New Mexico, and Southern California, respectively, have been instructed to take appropriate action in the premises.

Accept, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 812.00/1499.

The American Ambassador to the Secretary of State.

No. 481.] MEXICO, *April 21, 1911.*

SIR: With reference to this embassy's telegram of the 20th instant, 11 p. m., relative to the reply of the Mexican foreign office to my note sent in the matter of the fatalities resulting from the battle of Agua Prieta, I have the honor to forward to the Department herewith a copy in the original and in translation of a subsequent note from the foreign office in the same matter.

I have, etc.,

HENRY LANE WILSON.

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[1] Should be Mr. de la Barra's.

[Inclosure.]

The Mexican Minister for Foreign Affairs to the American Ambassador.

[Translation.]

No. 33911.] FOREIGN OFFICE,
Mexico, April 20, 1911.

MR AMBASSADOR: The Government of Mexico being moved by a great feeling of respect for truth and justice, and having in mind its wish that all its acts prove this feeling, I have the honor to inform your excellency that information received after the date of my note No. 32556 of the 17th instant, show that Capt. Guajot did not cross the border for the purpose of having the garrison surrender; in view of which, if this information is true, I beg of your excellency to consider as not having been included in my note above mentioned that paragraph which refers to this matter.

I avail, etc.,

F. L. DE LA BARRA.

File No. 812.00/1506.

The Governor of Arizona to the President.

[Extract.]

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., April 21, 1911.

SIR: I have the honor to submit herewith a brief statement of the events which led to my sending the telegram of April 17, the answer to which I received on the morning of the 18th.

[Narrative of military activities during the battle at Agua Prieta.]

I desire to express my appreciation of the prompt response you gave my telegram. I feel certain that the candid and full statement of the situation from the standpoint of the Government made by you has had a salutary effect among the insurrectionists, as it has had in clearing the international situation. In the anxiety that I and the citizens of Douglas felt at the moment, and our great desire to protect our own people, we may have appeared to overlook the larger questions involved, which were so fully and satisfactorily stated by you in your telegram * * *.

Very respectfully,

RICHARD E. SLOAN,

File No. 812.00/1486A.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, April 22, 1911.

MY DEAR MR. AMBASSADOR: In response to your inquiry[1] as to the disposition of the Mexican Federal troops detained since their crossing the frontier under arms on the occasion of the fighting at Agua Prieta, I hasten to give this matter the consideration which your excellency requested.

Upon the assurance of your excellency's Government that such technical invasion of American territory will not again occur in

[1] Oral.

respect to the troops in question, and without prejudice to the course which this Government might find it necessary to take in any future case of the kind, I am happy to inform you that next week the necessary orders will be issued for the release of the troops now detained, who will then doubtless be enabled to return to Mexico in the course of a few days.

I am [etc.],

P. C. KNOX.

File No. 812.00/1348.

No. 3.] DEPARTMENT OF STATE,
Washington, April 22, 1911.

EXCELLENCY: In further reply to Mr. de la Barra's note of the 16th ultimo, communicating to the Department a report that on February 7, 1911, persons on the American side of the Rio Grande fired on Mexican soldiers near Juárez, I have the honor to inclose herewith copies of a letter from the Department of Justice,[1] with accompanying papers relating to the investigation of the matter by its agents.[2]

From the evidence collected by the agents of the United States, it seems clearly established that the shots which were thought by the Federal troops to have been fired upon them from the American side of the river were in reality fired from the Mexican side of the river by certain insurrecto scouts, who suddenly appeared upon the hills directly opposite the smelter, which were apparently more or less directly in line with the crowd collected upon the American side of the river. The very thorough patrol established at the time of the incident by the American troops, as reported by Capt. Dillingham, would seem to make this explanation conclusive. The Department believes that this explanation will be found entirely satisfactory to the Mexican Government.

I wish, however, in closing, to assure your excellency that the Government of the United States will in the future, as it has in the past, make every effort to secure the strict enforcement of our so-called neutrality statutes, to the end that no hostile act shall be carried on from American territory.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1374.

The Acting Secretary of State to the Mexican Ambassador.

No. 6.] DEPARTMENT OF STATE,
Washington, April 25, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of Mr. Pereyra's note of the 15th instant, stating that your excellency had telegraphed to the department of foreign affairs of Mexico the contents of the Department's note of the 10th of the same month in regard to the wounding of a boy on American territory during a battle between Mexican Federal and insurgent forces in February

[1] No. 1058. [2] Not printed.

last and that the President of Mexico had ordered an investigation of the matter.

Requesting that your excellency will be so good as to advise me promptly of the result of this investigation, which the Department will await,

I beg, etc.,

HUNTINGTON WILSON.

File No. 812.00/1621.

The American Ambassador to the Secretary of State.

No. 502.] MEXICO, *April 27, 1911.*

SIR: I have the honor to inclose to the Department herewith copy of a note I have addressed to the American consular agent at Puebla through the consulate general in this city with reference to the possible intervention in Mexico by the forces of the United States.

I felt it necessary to express myself as I have in this note in order to allay the fear and alarm which seemed to be so keenly felt by Americans in Mexico, not only in the State of Puebla but throughout the country, and I trust that my action and the expressions I have used will receive the Department's approval.

I also inclose to the Department copy of a letter [1] of a similar nature which I addressed to Mr. Albert H. Lawrence, of El Potrero, Vera Cruz.

I have, etc.,

HENRY LANE WILSON.

[Inclosure.]

The American Ambassador to the American Consul General.

No. 485.] MEXICO, *April 25, 1911.*

SIR: I have your No. 1417E of the 18th instant,[1] relative to an inquiry from the American consular agent at Puebla, Puebla, concerning the matter of the protection of American interests in the event of intervention by the American Government in Mexico. In the opinion of the embassy the eventuality of so serious a step as intervention should be strongly deprecated on all occasions. It goes without saying, however, that in case the American Government should deliberately decide upon so drastic a measure, that whatever is possible will be done, as long beforehand as may be, to give such advice to American citizens resident in this country as will enable them to protect themselves.

I am [etc.],

HENRY LANE WILSON.

File No. 812.00/1619.

No. 509.] AMERICAN EMBASSY,
Mexico, April 29, 1911.

SIR: I have the honor to advise the Department that a serious condition in the town of Parral, Chihuahua, was called to the attention of the embassy by the consul at Saltillo, by the British legation here, and by Mr. David B. Gemmill, of the West Mexican Mines (Ltd.), recently.

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[1] Not printed.

The situation seemed sufficiently serious to warrant the embassy in taking immediate action, and I have the honor to inclose to the Department herewith copies of two notes which I have addressed to the foreign office asking that prompt and adequate protection be afforded the American lives and property in danger.

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1.]

The American Ambassador to the Minister for Foreign Affairs.

No. 340.] AMERICAN EMBASSY,
Mexico, April 26, 1911.

Mr. MINISTER: On account of the alarming reports which have been received at this embassy from the American consul at Saltillo and information extended the embassy by the British Legation in this city concerning the jail delivery in the town of Parral, which placed at large 43 prisoners, including a number of murderers and bandits, and the general unsatisfactory and unsafe conditions in the neighborhood of Parral, due to revolutionary activity, I have the honor to request that due cognizance will be taken of this state of affairs by your excellency's Government, and that all possible measures will be promptly initiated to insure the protection of American citizens at Parral, nine of whom, the embassy is advised, along with various British, French, and German citizens, are in serious danger.

I avail, etc.,

HENRY LANE WILSON.

[Inclosure 2.]

No. 358.] AMERICAN EMBASSY,
Mexico, April 29, 1911.

Mr. MINISTER: In connection with my note, No. 340, of the 26th instant, in which I had the honor to call your excellency's attention to the serious state of affairs at Parral and its consequent danger to American citizens and American interests in that vicinity, I have the honor to inclose to your excellency herewith, for your excellency's information, copy of a letter[1] from Mr. David B. Gemmill, an American citizen, the manager of the Western Mexican Mines (Ltd.). The embassy is also in receipt to-day of telegraphic instructions from the Department of State in Washington directing it to request, reserving at the same time all rights of reclamation for damages suffered, the proper protection for American lives and American interests at Parral and in that vicinity.

I avail, etc.,

HENRY LANE WILSON.

File No. 812.00/1385.

The Secretary of State to the Mexican Ambassador.

Referring to the memorandum of the Embassy of Mexico of the 9th instant, stating that on the 7th of this month four volleys were fired at soldiers of Gen. Luque from behind breastworks on territory of the United States, the Department of State has the honor to say that it is advised by the Department of Justice that the United States marshal for the western district of Texas has been instructed to report in regard to the matter.

DEPARTMENT OF STATE,
Washington, April 29, 1911.

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[1] Not printed.

File No. 812.00/1401.

No. 9.] DEPARTMENT OF STATE,
Washington, April 29, 1911.

EXCELLENCY: Referring to the embassy's note of the 8th instant, regarding the receipt of ammunition at Ojinaga by Gen. Luque, I have the honor to inclose for your information and consideration a copy of a letter from the Assistant Attorney General,[1] stating that the matter will be given attention and suggesting that his department be advised in advance of future shipments of the kind mentioned.

Accept, etc.

P. C. KNOX.

File No. 812.00/1422.

No. 10.] DEPARTMENT OF STATE,
Washington, April 29, 1911.

EXCELLENCY: Referring to Mr. Pereyra's note of the 9th instant, communicating to the Department a report that men and war material were constantly passing from El Paso to Guadalupe, I have the honor to inform you that the Department is advised by the Attorney General that he is transmitting a copy of Mr. Pereyra's note to the United States attorney and the United States marshal in the district in which El Paso is situated.

The Attorney General adds that the suggestion contained in the note is not confirmed by the information which he has been receiving from his department's agents on the border.

Accept, etc.

P. C. KNOX.

File No. 812.00/1371.

In further reply to the memorandum of the Embassy of Mexico, of February 16, 1911, in regard to reports that one Richard Ferris was organizing a force in California to invade Mexican territory, the Department of State has the honor to inclose for the embassy's information a copy of a letter[1] from the Assistant Attorney General, transmitting a report concerning the matter from Special Agent Herrington, of the Department of Justice, from which it appears that sufficient evidence against Ferris to convict him of violating the neutrality laws has not been obtained.

DEPARTMENT OF STATE,
Washington, May 1, 1911.

File No. 812.00/1599.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1316.] EMBASSY OF MEXICO,
Washington, May 2, 1911.

EXCELLENCY: With reference to my note No. 1210 of April 7 last relative to fears of a rebel movement at Laredo, Tamaulipas, ex-

[1] Not printed.

pressed by Ambassador Wilson, and to the possibility of the rebels finding support and cooperation in Texas, I hasten to apprise your excellency that according to the latest intelligence received by the department of foreign relations the rebels are showing greater activity on the Texas frontier between Laredo and Brownsville, as the consul of Mexico at Laredo, Tex., reports a very noticeable movement of arms and ammunition consigned to Laredo and other points, among others Fremont, where a merchant by the name of J. C. Canales is in collusion with the rebels.

I take the liberty of communicating the foregoing to your excellency for all pertinent purposes, and renew, etc.

M. DE ZAMACONA.

File No. 812.00/1600.

[Memorandum—Translation.][1]

The embassy presents its compliments to the Department of State and has the honor to inform it that the Government of Mexico has learned, through the correspondence of a Madero sympathizer at El Paso, Tex., named Arturo Almada, that the armistice is being taken advantage of to send arms and ammunition into Mexican territory. It is now attempted to send over a lot of 400 rifles with a large supply of cartridges shipped in three wagons escorted by rebel troops, which will cross the river, if they meet with no obstacle, at a distance from El Paso not definitely stated, but supposed by this embassy to be from 8 to 30 miles.

The informant, Almada, belongs to the party of rebels in Sonora under the command of Fernando Chávez.

MEXICAN EMBASSY,
Washington, May 3, 1911.

File No. 812.00/1702.

The American Ambassador to the Secretary of State.

No. 519.] MEXICO, *May 3, 1911.*

SIR: I have the honor to refer to my telegram of the 30th ultimo, 11 p. m.,[2] relative to the wrecking and attack upon the Saturday special train of the Mexico-Cuernavaca Line, at El Parque, in the valley of Morelos, on the evening of the 29th ultimo.

Yesterday the embassy received word through the Russian minister, Mr. Stalewski, to whom—by some means or other—a telegram had been sent, stating that American and German citizens at Cuernavaca were in danger, and asking for help.

I brought the matter to the attention of the German chargé, and he, accompanied by Mr. Dearing, went to the foreign office yesterday afternoon and laid the matter before the minister for foreign affairs.

Copies of the two memorandums, which I am inclosing herewith, one intended for Mr. de la Barra, and the other[2] prepared by Mr.

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[1] Copied to the Secretary of War and the Attorney General. [2] Not printed.

Dearing after the interview, will place the Department in possession of all the information it will need in explanation of this incident.

I have [etc.],

HENRY LANE WILSON.

[Inclosure.]

[Memorandum for Mr. de la Barra regarding Cuernavaca matter.]

Information received at the American embassy represents the situation of many American citizens now at Cuernavaca, Morelos, to be one of extreme danger, and they have applied for help and protection. The embassy would, therefore, be glad to have some statement as to the true state of affairs in the State of Morelos, and as to what measures have been taken by the Mexican Government to safeguard the lives of American citizens since the wreck and holdup of the train at El Parque, on the Mexican-Cuernavaca Railway, on the 1st instant. The embassy further desires to state that the condition of affairs above referred to has been reported to Washington and it begs, in the meantime, most earnestly and urgently to request that prompt and adequate measures be taken immediately to insure the safety of the American citizens in question, and to voice the belief that if harm should come to any of them, international complications of a serious nature might ensue by reason of the circumstance that various citizens of other nationalities at Cuernavaca are in a similiar predicament. Representations similar to those contained in this memorandum are being made by the German legation in this capital, pursuant to a verbal promise made at a joint conference between the German chargé d'affaires and the secretary of the American embassy with his excellency the minister for foreign affairs.

File No. 812.00/1777.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

The Mexican ambassador presents his respects to his excellency the Secretary of State and has the pleasure to send him herewith inclosed copy of a message received to-day from Mr. de la Barra.

MEXICAN EMBASSY,
Washington, May 3, 1911.

[Inclosure—Translation.]

On account of attack of last Sunday on train from Mexico City to Cuernavaca most alarming reports have been circulated regarding situation at Cuernavaca, where there are many American residents. Communication between Cuernavaca and Mexico City has been reestablished, and I have official reports to the effect that the situation at Cuernavaca is not alarming and that all residents there are fully protected.

File No. 812.00/1699.

The American Ambassador to the Secretary of State.

No. 518.] AMERICAN EMBASSY,
Mexico, May 3, 1911.

SIR: Referring to the Department's telegram of April 28,[1] transmitting a telegram received from the chargé d'affaires of the United

[1] Not printed.

States at Buenos Aires, I have the honor to transmit to the Department herewith copy of an informal note which I have just sent to Mr. de la Barra in the matter.

I have, etc.,

HENRY LANE WILSON.

[Inclosure.]

Ambassador Wilson to the Minister for Foreign Affairs.

Informal.] AMERICAN EMBASSY,
Mexico, May 3, 1911.

MY DEAR MR. DE LA BARRA: My Government, to which I transmitted a telegram recounting our very satisfactory conversation of the 21st ultimo and the spontaneous and unreserved expressions of cordial friendship which you were kind enough to make upon that occasion, was most agreeably impressed with this renewed evidence of the justness of the favorable impression which you had made during your successful and patriotic labors as ambassador of Mexico at Washington.

The Secretary of State, Mr. Knox, was therefore greatly surprised to receive from the American chargé d'affaires in Buenos Aires a telegram reporting that the newspaper La Prensa had published the following telegram from the Mexican minister for foreign affairs to the Mexican chargé d'affaires in Buenos Aires:

I have just informed Chamber of Deputies regarding peace negotiations with revolutionists and present relations with the United States. Regarding the first point, I stated that the Government did not initiate them but was willing to consider definite propositions inspired by patriotism, and, regarding second, stated that difficulties exist, but expressed Government's disposition to settle all of them amicably, calling attention to the fact that the presence of a large number of North American troops so near the Mexican frontier might give rise to an unexpected conflict.

It is perhaps superfluous for me to say, my dear Mr. de la Barra, that by Government claims no right to comment adversely upon the confidential communications which may be exchanged between the department over which you so worthily preside and the diplomatic representatives of Mexico abroad, but, as your telegraphic instructions have evidently been communicated to La Prensa by the Mexican representative in Buenos Aires, or at least have obtained publicity through a diplomatic indiscretion, they necessarily become a subject for consideration by my Government, which is interested at this moment in eliminating from the diplomatic exchanges between the two countries anything whatsoever which may not be conducive to a frank and excellent understanding.

My Government is compelled to consider statements such as these, published with what appears to be official sanction, may be productive of a misunderstanding of the unquestionably friendly and disinterested attitude which, as is well known to the Mexican Government, the United States has uniformly maintained in its relations with this Republic.

I am obliged, my dear Mr. de la Barra, for the purpose of preserving that spirit of candor and confidence which should exist between the department under your charge and the Department of State at Washington, to bring this matter to your attention, but knowing your comprehension of the spirit which animates the Government of the United States and the disinterestedness of its foreign policy, I have thought it due to our mutual friendship, which I cherish very highly, that the incident should be brought to your notice in a purely informal way, which, in a measure, takes it out of the domain of official discussion.

I am, etc.,

HENRY LANE WILSON.

File No. 812.00/1629.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1325.] EMBASSY OF MEXICO,
Washington, May 3, 1911.

EXCELLENCY: In regard to your excellency's note of March 9 last, and this embassy's answer contained in note No. 1036 of the same

date, referring to certain shots fired toward American territory during the battle that took place at Mulato between Federal and seditious forces, I have the honor to copy to your excellency the information which on March 24 last Gen. Gonzalo Luque sent to the department of war and marine, to wit:

In compliance with your communication, No. 70207, of the 11th instant, drawn up by the general staff department, I have the honor to inform you that El Mulato, as you will see from the sketch I sent with my communication, lies in a well-marked bend of the Rio Grande, so that from whatever part of the Mexican side an attack may be made on the said position the shots are sure to go to the other side, and in no case could the man firing the gun be charged with intentionally so firing, as his target is no near the bank of the river and the conditions are such that the only way out of it would be not to fire. I beg to say further that this is the first time I have heard of the injuries to the boy and the mule referred to in your said communication.

In bringing the foregoing to your excellency's attention I take pleasure in renewing [etc.],

M. DE ZAMACONA.

File No. 812.00/1499.

The Secretary of State to the American Ambassador.

No. 328.] MAY 4, 1911.

SIR: The Department acknowledges the receipt of your dispatches Nos. 472, 479, and 481, of April 17, 19, and 21, respectively, relative to certain circumstances arising from the recent fighting at Agua Prieta.

Through the commanding officer of the Army in the vicinity of Douglas a careful investigation of the facts and circumstances surrounding the battles at Agua Prieta is being made, and as soon as the Department is put in possession of the results of this investigation you will be instructed in regard to what answer, if any, you should make to the notes of Mr. de la Barra. Meanwhile, if you have not already acknowledged these notes, it would seem wise that no acknowledgment should be made to them.

I am, etc.,

P. C. KNOX.

File No. 812.00/1504.

The Secretary of State to the Mexican Ambassador.

No. 14.] DEPARTMENT OF STATE,
Washington, May 4, 1911.

EXCELLENCY: In further reply to Mr. Pereyra's note of March 26 last, quoting a report from the governor of Sonora that armed bands were invading that State from its northern boundary, I have the honor to inclose herewith a copy of a letter from the Attorney General, transmitting one from the United States attorney for Arizona in relation to the matter.

Accept, etc.,

P. C. KNOX.

[Inclosure.]

The Attorney General to the Secretary of State.

No. 90755-780.] DEPARTMENT OF JUSTICE,
Washington, April 26, 1911.

SIR: I beg to hand you a copy of a letter [1] just received from the United States attorney for the Territory of Arizona, replying to a communication from this Department, transmitting to him a copy of a note from the Mexican embassy, stating that the governor of Sonora had reported that armed bands had invaded that State from its northern boundary, and requesting that steps be taken to prevent such expedition.

I have, etc.,

GEO. W. WICKERSHAM.

File No. 812.00/1617.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *May 4, 1911.*

Among the foreign elements in the City of Mexico the anxiety is seemingly increasing, due in part to fear that negotiations for peace will fail and general anarchy obtain; and in part to popular resentment of supposed impending intervention. Americans and the other colonies are probably concerting measures of precaution. Americans seem to be generally well armed. Success of peace negotiations would avert any immediate danger.

File No. 812.00/1600.

The Secretary of State to the Mexican Ambassador.

The Department of State presents its compliments to the Mexican Embassy, and has the honor to acknowledge the receipt of the embassy's third-person note of the 3d instant, stating that the Mexican Government has learned, through the correspondence of a Madero sympathizer at El Paso, Tex., that the armistice is being taken advantage of to send arms and ammunition into Mexican territory; and that it is now attempted to send over a lot of 400 rifles with a large supply of cartridges, shipped in three wagons escorted by rebel troops which are to cross the river, if they meet with no obstacle, at a distance from El Paso which the embassy conjectures to be from 8 to 30 miles.

Copies of the embassy's memorandum have been sent to the Secretary of War and to the Attorney General, for their information and appropriate action in the premises.

DEPARTMENT OF STATE,
Washington, May 5, 1911.

File No. 812.00/1496.

In further reply to the memorandum of the Embassy of Mexico, of the 8th ultimo, in regard to the molestation of a Mexican courier

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[1] Not printed.

while carrying funds for Gen. Luque from Marfa to Presidio, the Department of State has the honor to inclose for the embassy's information a copy of the letter from the governor of Texas,[1] stating that he has sent to the sheriff of Presidio County copies of the correspondence in relation to the matter, and instructions to give protection to the agents of the Mexican Government.

DEPARTMENT OF STATE,
Washington, May 5, 1911.

File No. 812.00/1599.

The Secretary of State presents his compliments to his excellency the Mexican ambassador and has the honor to acknowledge the receipt of the ambassador's note No. 1316, of the 2d instant, in which he states that, according to the latest intelligence received by the department of foreign relations, the rebels are showing greater activity on the Texas frontier, between Laredo and Brownsville, as the Mexican consul at Laredo reports a very noticeable movement of arms and ammunition consigned to Laredo and other points, among others Fremont, where a merchant named J. C. Canales is in collusion with the rebels.

In complying with the ambassador's request that the proper action in the matter be taken the Secretary of State has sent copies of the note to the Secretary of War and to the Attorney General for their information and appropriate action in the premises.

DEPARTMENT OF STATE,
Washington, May 5, 1911.

File No. 812.00/1676.

The Mexican Ambassador to the Secretary of State.

EMBASSY OF MEXICO,
No. 1340.] *Washington, May 5, 1911.*

EXCELLENCY: Referring to this embassy's notes 1249 and 1325 of April 15 last and the 3d instant, respectively, to the department in your very worthy charge, I have the honor to say that the foreign office instructs me in a recent note to pursue the misapprehension concerning the shots fired toward American territory,[2] since the Mexican Government wishes to dissipate all doubt and leave not even a suspicion in regard to the friendly conduct of our soldiers in their relations with those of this Republic.

The War Department sent to the foreign office the original letter of Capt. Frank A. Barton, of the American Army, commanding the troops at Marfa, Tex., and Gen. Gonzalo Luque's answer thereto. Capt. Barton's letter says that on March 22 one of the patrols of Gen. Luque at Ojinaga fired on the American patrols "believing that the Americans were insurrectos." Capt. Barton did not doubt that it was a mistake and so reported to the War Department, and he requested Gen. Luque to make that statement in writing, with an expression of regret, so as to deny the false press reports.

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[1] Not printed.

[2] At El Mulato.

Gen. Luque replied that the shots were fired by rebels at Mexican federal forces near the river, and he accordingly supposes that some shots reached the point occupied by the American patrol.

Gen. Luque adds that his soldiers not only were under orders not to make the mistake of harming the soldiers of this country, but that such an error would be impossible, since they daily see the American soldiers on duty.

In his letter Gen. Luque further says:

> I should be glad personally to show you the scene of the occurrence, so you could form a correct idea of what happened, and I may add that some of the rebels, as you have doubtless noticed, fired on us with Mausers, the range of which you know; this confirms my belief that it was their bullets that were fired across the river.

As your excellency will please observe in the cited correspondence, the above-named officers are on the best of terms, and this affords me the great satisfaction of reaffirming the assurances given by the Government of Mexico to that of the United States at the time of this incident, which I most sincerely deplore, attended as it was by consequences lamented as deeply by the Government of Mexico as by that of the United States.

I avail, etc.,

M. DE ZAMACONA.

File No. 812.00/1655.

The American Consul at Ciudad Juarez to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Ciudad Juarez, May 7, 1911.

Francisco I. Madero, leader of the insurrectos, issued a signed statement to-day declaring all peace negotiations at an end and without result, and also stated that the attack on Juarez had been abandoned, giving as a reason the fear that an international complication would result from an engagement between the two forces so close to the border. He will to-morrow commence a movement south and continue his march to the City of Mexico.

EDWARDS.

File No. 812.00/1617.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 8, 1911.

Consult if necessary with the other members of the diplomatic corps as to what should be done locally to protect foreign life and property in case of a crisis. Warn all Americans to remain strictly nonpartisan.

KNOX.

File No. 812.00/1664.

The American Ambassador to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Mexico, May 8, 1911.

After long sessions of the Cabinet on Saturday and Sunday, President Diaz Sunday night issued a manifesto in which he declares he will resign when his conscience will permit and intimates that will be when order is reestablished throughout the country. He says that the present is no fit time for a general election and that to resign now would invite the reign of anarchy. Manifesto concludes with praise for the army and an appeal to the patriotism of the Mexican people.

Mr. de la Barra issued a statement last night in explanation and support of manifesto and stated to me to-day that he thought it would be satisfactory to the revolutionists.

WILSON.

File No. 812.00/1698.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, May 9, 1911.

EXCELLENCY: Referring to my note of the 1st instant,[1] I have the honor to inform your excellency that by direction of the Secretary of War the Adjutant General of the Army sent on the 6th instant to the commanding general, Department of Colorado, a telegram authorizing and directing him to release all Mexican Federal soldiers who were being held by him, but to retain all arms, ammunition, and munitions of war, and stating that said soldiers should be received by the commanding officer, Agua Prieta, on the border.

The arms, ammunition, and munitions of war will be held awaiting a further investigation.

Accept, etc.,

(For Mr. Knox.)
CHANDLER HALE.

File No. 812.00/1691.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

No. 1352.]

By order of the department of foreign relations, the Embassy of Mexico has the honor to apprize the Department of State that, according to reports from the consul of Mexico at El Paso, Tex., several shots were fired yesterday at the Mexican side from the American side, and with reserve of such rectifications or confirmations as may result from the investigation it is conducting the

[1] Not printed.

embassy desires to call the Department of State's attention to the gravity of the fact related in the aforesaid reports.

MEXICAN EMBASSY,
Washington, May 9, 1911.

File No. 812.00/1701A.

The Secretary of State to the Consul at Cuidad Juarez.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 9, 1911—8 p. m.

The Department is informed that the Mexican consul at Juarez has reported to his Government that in the course of the troubles of the last two days at Juarez shots have been fired from the American side of the boundary.

You will investigate and report by telegraph on these allegations; meanwhile, you will promptly make telegraphic report upon the present situation and prospects at Juarez.

KNOX.

File No. 812.00/1707.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *May 10, 1911.*

Upon the request of the French and Italian diplomatic representatives here, and under the instructions of the Department, I have asked the diplomatic representatives of Great Britain, France, Italy, Germany, Belgium, and Spain to come to the embassy to-day for an informal exchange of views on the situation in this city. The consensus of opinion was that action should be taken to protect foreign elements against possible outbreaks of criminal classes here. It was agreed on my suggestion to form a committee representing all colonies to plan a common policy of defense; but it was decided that the representatives of Italy, France, and Spain should first confer with Mr. de la Barra as to the resources of the Government and its disposition to approve joint action by the colonies.

WILSON.

File No. 812.00/1802.

No. 535.] MEXICO, *May 10, 1911.*

SIR: Referring to the embassy's telegram of the 4th instant and the Department's telegraphic instructions of the 8th in reply thereto, I have the honor to transmit herewith a copy of a note from the Italian minister, Count Massiglia, suggesting a meeting of the resident diplomatic corps for the purpose of considering the present situation, and a copy of my circular note to the ministers of Spain and Belgium and the chargés d'affaires of France, Germany, and Great Britain.

I may add in this connection that the French chargé d'affaires, Baron de Vaux, called yesterday afternoon and verbally made a request similar to that of the Italian minister.

Whatever action may be taken will be reported to the Department.

I have [etc.],

HENRY LANE WILSON.

[Inclosure 1.]

The Italian Minister to the American Ambassador.

MAY 6, 1911.

MY DEAR AMBASSADOR: May I suggest a friendly gathering of our colleagues in order to exchange views on the situation? I think that the safety of our colonies justifies the step.

Yours [etc.],

MASSIGLIA.

[Inclosure 2.]

The American Ambassador to Members of the Diplomatic Corps.

MY DEAR COLLEAGUE: At the suggestion of His Excellency Count Massiglia, I beg to invite you to a brief informal conference of some members of the resident diplomatic corps to be held at this embassy to-day, Wednesday afternoon, at 4 o'clock.

I am [etc.],

HENRY LANE WILSON.

File No. 812.00/1285.

The Secretary of State to the Mexican Ambassador.

[Memorandum—Translation.]

In further reply to the memorandum of the Embassy of Mexico of the 9th ultimo, communicating to the Department of State a report that on the 7th of that month four volleys were fired from the American side of the Rio Grande at the soldiers of Gen. Luque, the Department has the honor to inclose a copy of a letter[1] from the Attorney General, transmitting a report of the United States marshal for the western district of Texas, accompanied by correspondence which indicates that the report mentioned was erroneous.

DEPARTMENT OF STATE,
Washington, May 10, 1911.

File No. 812.00/1706.

The American Consul General to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
Monterey (Received May 11, 1911).

The worst thing happening in Mexico to-day is the foolish talk about American military intervention. All believe such a thing at

[1] Not printed.

present time would be a crime against the Americans in Mexico as well as American interests. Please instruct me to instruct consuls positively to deny such reports.

HANNA.

File No. 812.00/1730.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *May 11, 1911.*

The minister for foreign affairs to-day received the representations of the committee of the diplomatic corps and said that the offer of the foreign colonies of their services for preserving law and order was appreciated, and he approved of their cooperating.

WILSON.

File No. 812.00/1818.

No. 542.] AMERICAN EMBASSY,
Mexico, May 11, 1911.

SIR: Relative to the protection of American lives and interests at Parral, the foreign office informed me to-day that the war department has been requested to immediately afford the protection desired, and, referring to the reservation made by the embassy of all reclamation rights for damages suffered, reserves on its own behalf the right to know in every case upon what grounds claim for damages is based, so that such claims may be dealt with in accordance with the principles of international law.

I have, etc.,

HENRY LANE WILSON.

File No. 812.00/1732.

The American Consul at Ciudad Juarez to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Ciudad Juarez, May 11, 1911.

Provisional President Madero and Provisional Governor Gonzales are here, and have set up local government for Juarez. I am acting in harmony with the Government de facto. The provisional governor seems anxious to favor Americans and work in harmony with them in the establishment of law and order.

EDWARDS.

File No. 702.1211/213.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1358.] MEXICAN EMBASSY,
Washington, May 11, 1911.

EXCELLENCY: I have the honor and regret to apprise your excellency that, according to a report from the consul of Mexico at Doug-

las, Ariz., a group of rebels yesterday stood in front of the consulate and insulted the personnel of that office whenever they came out on the street.

The local authorities know of this, and in view of the gravity of the offense I hasten to bring it to your excellency's knowledge, feeling assured that you will please to issue such orders as may be necessary to secure the personnel of the Mexican consulate at Douglas from such annoyances on the territory of this friendly nation.

I avail, etc.,

M. DE ZAMACONA.

File No. 812.00/1741B.

The Secretary of State to the American Ambassador.[1]

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 12, 1911.

You are authorized officially to deny, through the local press and otherwise, as under instructions to do so, all foolish stories of intervention, than which nothing could be further from the intentions of the Government of the United States, which has the sincerest friendship for Mexico and the Mexican people, to whom, it hopes, will soon return the blessings of peace. The Government of the United States is not concerned with Mexico's internal political affairs, and demands nothing but the respect and protection of American life and property in the neighboring Republic. You will use the language of this instruction.

You are further instructed to observe the strictest impartiality, interfering in no wise between contending forces, and counseling Americans to follow the same course.

KNOX.

File No. 812.00/1808.

The President to the Secretary of State.

THE WHITE HOUSE,
Washington, May 12, 1911.

MY DEAR MR. SECRETARY: I inclose herewith a copy of a letter which I have written, after a consideration of the discussion to-day, to the Secretary of the Treasury to guide him in the conduct of the business of the customhouse at El Paso.

I have sent a copy of this letter to the Attorney General and the Secretary of War.

Sincerely, yours,

WM. H. TAFT.

[Inclosure.]

THE WHITE HOUSE,
Washington, May 12, 1911.

SIR: After a conference with the Secretary of State and the Attorney General, I have reached a conclusion as to your duty in permitting merchandise, and especially arms and munitions of war, to pass through the customhouse

[1] The same instructions to all consular officers in Mexico except the consul general in Mexico City.

at El Paso, Tex., into the adjoining town of Juarez, in the Mexican Province of Chihuahua. The forces of the insurrection against the existing Mexican Government have taken Juarez and are now in possession. This does not alter or affect the duty of the Government to allow merchandise of all kinds in usual course of commerce to pass through its customhouse for delivery upon the other side of the border into Juarez. There is no rule of international law that forbids. The rule of international law and our so-called neutrality statutes do not seem to differ in this regard. The insurrectos can not be permitted to use El Paso as a base of operations from which to equip and arm their forces. In other words, they may not establish a depot and maintain storehouses in El Paso and, from time to time, withdraw from there the supplies they need, whether this be food or munitions of war. But international law favors the continuance of commercial transactions and holds them innocent in a neutral country until those transactions become really a part of a military operation against a friendly government. The mere sale, however, of supplies in El Paso to Mexicans, whether insurrectos or supporters of the Government, and their delivery across the border, without more, is not a violation of international law or of the neutrality statute.

It will be truly said that the possession of a town like Juarez by the insurrectos, therefore, gives them a great advantage in that by purchase across the border they can make a depot of supplies in Juarez obtained by purchase from Americans in El Paso or other places in the United States. This may be, but it grows out of the weakness or the misfortune of the Mexican Government, for which we are not responsible, and it does not change our duty or the right of persons in our jurisdiction to carry on legitimate business.

Unless, therefore, the guns and ammunition are presented to you under circumstances showing that their transportation is within the inhibition of the law, as above stated, you will allow them to pass as the subject of legitimate commerce.

Sincerely, yours,

WM. H. TAFT.

File No. 812.00/1765.

The American Consul at Ciudad Juarez to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Ciudad Juarez, May 13, 1911.

Have investigated the report of the firing of shots from the American side at the opening of the attack on Juarez. Can not find foundation for report.

EDWARDS.

File No. 812.00/1846.

[Extract.]

No. 104.] AMERICAN CONSULATE,
Ciudad Juarez, May 13, 1911.

SIR: I have the honor to report some supplementary facts concerning the attack on and the taking of this city by the insurrecto forces this week. [Narration of events of May 8.]

When the end came we had a house full of refugees, and a number of the civil officials came in after the surrender and after they were allowed their freedom on parole. The mayor of Juarez remained at the consulate two nights. He feared an outbreak of the unruly faction of the insurrectos. So great is such a fear that many are fleeing to the American side, regardless of the property they abandon. I called on [the] provisional president and the governor soon after

their inauguration and offered to serve them in any manner that would promote harmony and good order, all of which was treated with due appreciation.

I have [etc.],

THOS. D. EDWARDS.

File No. 812.00/1691.

The Secretary of State to the Mexican Ambassador.

The Department of State has the honor to acknowledge the receipt of the Mexican Embassy's memorandum of the 9th instant, stating that, according to reports from the consul of Mexico at El Paso, Tex., several shots were fired on the 8th instant at the Mexican side from the American side, and stating that, with reserve of such rectifications or confirmations as may result from the investigation which the Mexican Government is conducting, the embassy desires to call the attention of the Department of State to the gravity of the statement made by the consul of Mexico at El Paso.

The Department of State has sent to the Attorney General and the Secretary of War, for investigation and report, copies of the Mexican Embassy's memorandum.

The matter will be most carefully investigated, though the Department feels quite sure that in view of the extraordinary precautions taken at El Paso it will be found that there has been some mistake in the matter.

DEPARTMENT OF STATE,
Washington, May 13, 1911.

File No. 812.00/1881.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1411.] MEXICAN EMBASSY,
Washington, May 13, 1911.

EXCELLENCY: The embassy has received the note of the department under your excellency's worthy charge, dated the 9th instant, by which it is pleased to inform me that, by order of the War Department, The Adjutant General of the Army sent to the commander of the Department of the Colorado a telegram dated the 6th of the same month authorizing him to release all the Mexican soldiers in the service of the Federal Government.

Your excellency adds that the arms, ammunition, and war material belonging to the said Mexican soldiers will be held by the military authorities of the United States until completion of the inquiry instituted in the case.

I have no doubt that on this as on all like occasions the Government of the United States will act in the spirit of justice by which all its acts are animated and that the orders forwarded to the commander of the Colorado will be favorable to the interest Mexico has in the

return of the said supplies on no other ground than that of finding in a decision of this Government evidence of its good will toward that of Mexico.

I take pleasure, etc.,

M. DE ZAMACONA.

File No. 702.1211/213.

The Secretary of State to the Mexican Ambassador.

No. 20.] DEPARTMENT OF STATE,
Washington, May 16, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 1358, of the 11th instant, in which you bring to the attention of this Department, for appropriate action, a report from the consul of Mexico at Douglas, Ariz., that on the 10th instant a group of rebels gathered in front of the Mexican consulate at Douglas and offered insults to the personnel of the consulate.

In reply, I have the honor to inform your excellency that a copy of your note has been transmitted to the governor of Arizona, through the Department of the Interior, for investigation and appropriate action.

Accept, etc.,

P. C. KNOX.

File No. 812.00/1619.

The Secretary of State to the American Ambassador.

No. 344.] DEPARTMENT OF STATE,
Washington, May 16, 1911.

SIR: The Department has received your No. 509, of the 29th ultimo, transmitting copies of two notes in which you requested the foreign office to cause American citizens and property at Parral to be protected, with one of which you inclosed a copy of a letter from the manager of the West Mexican Mines (Ltd.).

Your action in addressing these notes to the foreign office is approved by the Department.

I am, etc.,

P. C. KNOX.

File No. 812.00/1800.

The American Minister to Chile to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santiago, May 16, 1911.

The Chilean minister to Mexico telegraphs the minister for foreign affairs that it seems likely the revolution will succeed, and requests authority to lend his good offices should an opportunity to mediate offer. The minister for foreign affairs stated that such mediation will not be authorized unless perfectly acceptable to the United States. The Chilean chargé d'affaires, upon my suggestion, has been instructed by telegraph to ascertain the Department's views.

FLETCHER.

File No. 812.00/1830.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *May 17, 1911.*

The Government commissioner, Carbajal, was to-day instructed to notify Madero that the President and Vice President will resign before the end of May, and Mr. de la Barra will be President ad interim, and also retain the portfolio of foreign affairs; the subsecretary for foreign affairs will conduct the business of that office; the minister of war will be named by Mr. de la Barra and the remainder of the cabinet will be appointed after agreement with Madero. There will be an immediate general armistice and the Government will propose to Congress generous political amnesty. Mr. Limantour will soon leave the country, and will probably be succeeded in the treasury by Mr. Gómez del Palacio; Mr. Vásquez Tagle will probably be minister of justice.

WILSON.

File No. 812.00/1838.

MEXICO, *May 18, 1911.*

At 11 o'clock last night the armistice between the Government and the revolutionists went into effect.

WILSON.

The Secretary of State to the American Minister to Chile.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 18, 1911.

In reply to your telegram of the 16th, this Government is informed that both parties in Mexico are now engaged in direct negotiations. This would seem to make very improbable any request at present for mediation. The Department would, of course, have had no objection to the proffer of Chile's good offices; on the contrary, it would welcome the inquiry of the minister for foreign affairs as a manifestation of the spirit of Chilean-American cooperation so highly valued by this Government.

KNOX.

File No. 812.00/1766.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase—Extract.]

MEXICO, *May 19, 1911.*

This morning the minister for foreign affairs said he was retaining foreign portfolio solely in order to have direct charge of relations with the United States, and that in his manifesto to the Mexican people he would speak of the great service I had been able, on account of our personal friendship, to render in maintaining good relations between our two countries.

WILSON.

File No. 812.00/1880.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1414.] MEXICAN EMBASSY,
Washington, May 19, 1911.

EXCELLENCY: Under instructions from my Government I have the honor to apply to the department under your very worthy charge with a request that it be pleased to take such measures as may be deemed appropriate to the end of intimidating, by some of the effective means permitted by law, the agents who are enlisting filibusters near the boundary line for the purpose of taking them into Lower California, as frequently reported by the local press without anybody questioning the truth of such reports.

Among the most active promoters of this filbustering movement is Ricardo Flores Magón, who has his headquarters at Los Angeles, whence he went to Lower California to establish a customhouse and then returned to Los Angeles, where he is acting in concert with Mexicans and Americans who have neither a fixed residence nor interests of any kind in the Mexican territory into which they make their incursions.

I tender in advance to your excellency the expression of my thanks [etc.],

M. DE ZAMACONA.

File No. 812.00/1934.

MEXICAN EMBASSY,
Washington, May 19, 1911.

MY DEAR MR. KNOX: I have received a most urgent telegram from San Diego, Cal., stating that Pryce (an English subject), who has led filibustering expeditions from the United States to Lower California, Mexico, where he has committed great depredations and various robberies, was arrested by United States troops when he attempted to cross again from American territory into Tijuana.

I am further informed that he has obtained a writ of habeas corpus from the lower court and that to-morrow at 10 a. m. the superior court will consider the case. The imprisonment of this criminal will aid materially to check the filibustering expeditions which are constantly being organized on American territory against Lower California; but should he be set at liberty to-morrow, as his sympathizers at that locality assure will be the case, the effect of this immunity will undoubtedly be to encourage still further the filibusters in their criminal machinations. I hope, therefore, that your excellency may see the way to prevent this great evil.

Trusting that the urgency of the case will serve to excuse my troubling your personal attention on the subject, and with thanks in anticipation, I am, my dear Mr. Knox,

Yours, faithfully,

M. DE ZAMACONA.

File No. 812.00/1879.

[Translation.]

No. 1418.] MEXICAN EMBASSY,
Washington, May 20, 1911.

EXCELLENCY: The department of foreign relations directs me to represent to your excellency that in the course of the recent attack on Tijuana, Lower California, Mexico, by a force of adventurers from the United States, 12 Federal employes on duty at that time were driven to flight and crossed into American territory.

They are now at San Diego, Cal., where they are detained by the local authorities. According to some reports, confirmation of which has not yet reached the embassy, these employees have been subjected to molestations which can not be supposed to have been offered by the authorities which have them in custody, but rather were inflicted by the sympathizers the filibusters have in the State of California.

I have therefore to entreat your excellency that the necessary orders be issued at the earliest possible date, in accordance with justice and the relations of cordial friendship which happily exist between Mexico and the United States, to have the Mexican employees under consideration released and punishment inflicted on the guilty as provided by law, if the deplorable fact should be verified that the said employees have suffered any molestation.

I beg your excellency to be pleased to accept, etc.,

M. DE ZAMACONA.

File No. 812.00/1879.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, May 20, 1911.

MY DEAR MR. AMBASSADOR: Referring to your request[1] of this morning I hasten to inform you that the soldiers detained by our military authorities at San Diego are now all to be released under orders already issued by the War Department.

I am, etc.,

P. C. KNOX.

File No. 812.00/1802.

The Secretary of State to the American Ambassador.

No. 351.] DEPARTMENT OF STATE,
Washington, May 20, 1911.

SIR: The Department acknowledges the receipt of your No. 535, of the 10th instant, with which you transmit a copy of a note [etc.]. The Department approves the action you have taken in the matter.

I am, etc.,

P. C. KNOX.

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[1] Oral.

File No. 812.00/1934.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, May 20, 1911.

MY DEAR MR. AMBASSADOR: In reply to your personal note of the 19th instant, I beg to say that I at once communicated the contents of your letter to the Attorney General by telegraph with a request that he take such steps as were necessary and proper in the premises. I ought, however, to point out to you that it will be impossible for the Attorney General to prevent the release of this man upon habeas corpus unless the Attorney General is able to show that Pryce is guilty of some violation of our so-called neutrality statutes or of some ordinary criminal offense.

Although you state that Pryce has led filibustering expeditions from the United States into Lower California, Mexico, investigation will doubtless show that his activities have been conducted within the provisions of the statutes, and that while he may have led bodies of insurrectos in Lower California, such bodies were organized in Lower California and not in the United States. The careful patrol which this Government has for months kept along that portion of the Mexican boundary makes this presumption almost a certainty.

Of course, if the robberies of which you speak are extraditable offenses, it would be possible for your Government to institute appropriate extradition proceedings.

I am, etc.,

P. C. KNOX.

File No. 812.00/1888.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, May 22, 1911.

The treaty of peace was signed at 10 o'clock last night. It may therefore be said that the revolution is ended, though it is yet to be shown whether the more formidable rebel chiefs can be controlled by the Maderists. Two-thirds of the Republic is now in the hands of the revolutionists; the President is to transfer the Government to Provisional President de la Barra on Wednesday or Thursday.

WILSON.

File No. 812.00/1981.

[Extract.]

No. 578.] AMERICAN EMBASSY,
Mexico, May 23, 1911.

SIR: * * * At the meeting of a portion of the diplomatic corps representing the countries with large colonies, which I reported in my dispatch No. 535 of May 10, it was determined that, with the approval of the Mexican Government, the foreign colonies should arm themselves and have an understanding for common action for the defense of lives and property against the criminal

elements. The approval of the Mexican Government was obtained after an interview between Mr. de la Barra and the representatives of France, Italy, and Spain, and I thereupon, without publicity, appointed a committee of the most representative Americans in Mexico to take in charge the matter of the safety of the American colony. This committee took hold of the matter quietly but intelligently, and has effected a complete understanding with similar representatives from the German and Spanish colonies. Owing to this action, I have no doubt that in the event of disturbances beyond the power of the authorities to control, a fair degree of safety would be assured to the lives and property of foreigners. * * * I have received a large number of anonymous letters and have been privately advised from many sources that in the event of intervention this embassy would be immediately attacked and my life and the life of my family placed in jeopardy, but I have never believed in the existence of any danger whatsoever and have regarded these threats, in common with those which have aroused the apprehensions of the American colony, as designed solely to affect our policy in Mexican affairs. * * *

I am [etc.],

HENRY LANE WILSON.

File No. 812.00/1963.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1434.] MEXICAN EMBASSY,
Washington, May 24, 1911.

EXCELLENCY: Confidential but authentic information has reached the embassy to the effect that the United States attorney at Los Angeles, Cal., has now received all the evidence required to institute proceedings against Ricardo Flores Magón and his confederates, principals in the many scandalous filibustering attempts organized on territory of the United States against Lower California.

Under special instructions of the department of foreign relations of my country, I have the honor to communicate the foregoing to your excellency and earnestly to beg that you be pleased to obtain from the proper quarter the necessary orders to have the judicial action in the case brought against Flores Magón and his confederates.

The repression of the adventures originated by Magón and kept up by many others which are wholly unconnected with any political disturbance or strife of that character in the Mexican Republic is sure to set a salutary example that will check the filibusters' action.

I renew, etc.,

M. DE ZAMACONA.

File No. 812.00/1970.

[Translation.]

No. 1449.] MEXICAN EMBASSY,
Washington, May 24, 1911.

EXCELLENCY: The consul of the Republic at San Diego, Cal., reports to the embassy that the War Department has again ordered the re-

lease of Pryce, declaring him to be an insurgent—that is to say, fighting for political reasons in Mexico.

It is my duty to say to your excellency that the said Pryce, who brazenly published, as is on record in your Department, several advertisements in the New York newspapers calling for the services of 1,000 men to serve in Lower California, is, like Hopkins, Herrick, Milburn, and Ferris, an avowed filibuster and not an insurgent.

The raids of these men in Lower California are under the protection of no political flag, and therefore the Government of Mexico will not deem itself bound to make good claims of any kind on account of damages caused by them if the authorities of the United States, on whatever ground, leave them freedom of action, thus favoring, even though it be indirectly, those adventurers and making it easier for them to commit their assaults on property.

I trust that your excellency, taking into consideration the very grave situation created by the filibusters who came from the United States, will interpose your good offices to prevent such acts escaping punishment.

I take pleasure, etc.,

M. DE ZAMACONA.

File No. 812.00/2096.

[Translation.]

No. 1451.] EMBASSY OF MEXICO,
Washington, May 25, 1911.

EXCELLENCY: The war department of Mexico desires that permission be granted for the transit of the following officers and men of the national army who are now at El Paso, Tex., and are to proceed to Laredo, Tamaulipas, to join their respective corps: 1 general, 1 colonel, 3 lieutenant colonels, 1 major, 12 captains, 14 first lieutenants, 11 second lieutenants, 4 officers of the medical corps, 387 privates, 7 privates of the hospital corps.

In transmitting the wishes of the war department by order of my Government and begging your excellency to be pleased to use your good offices toward obtaining permission for the transit of the said officers and men from El Paso, Tex., to Laredo, Tex., I have the honor to renew, etc.,

M. DE ZAMACONA.

File No. 812.00/1750.

The Secretary of State to the Mexican Ambassador.

No. 32.] DEPARTMENT OF STATE,
Washington, May 25, 1911.

EXCELLENCY: Referring to your note of the 2d instant, regarding the movement of arms and ammunition to Laredo and adjacent points, especially to Fremont, where a merchant named J. C. Canales is reported to be in collusion with Mexican insurgents, I have the honor to inform you that the Department is advised by the Department of Justice, under date of the 10th instant, that this information has been communicated to its officers in Texas.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1751.

No. 33.] DEPARTMENT OF STATE,
Washington, May 25, 1911.

EXCELLENCY: Referring to your note of the 3d instant, stating that the armistice is being taken advantage of to send arms and ammunition for insurgents into Mexican territory, I have the honor to inform you that the Department is advised by the Department of Justice that this information was communicated to the United States marshal for the western district of Texas, by telegraph, on the 3d instant.

Accept [etc.],

P. C. KNOX.

File No. 812.00/2020.

The American Ambassador to the Secretary of State.

Serial No. 586.] AMERICAN EMBASSY,
Mexico, May 26, 1911.

SIR: I have the honor to inclose to the Department, at the same time referring to my telegram of the 16th instant,[1] copy in translation of a note from the Mexican foreign office, referring to the matter of the safety of Americans and other foreigners resident in this city and stating that all possible measures of precaution against damage to them have been taken.

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1.]

The American Ambassador to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Mexico, May 13, 1911.

MR. MINISTER: Representations have been made to me to-day by a large delegation of American merchants and business men residing in the City of Mexico, relative to the inadequate protection which, in case of danger being threatened to life and property by the disorderly elements of society, the Government of your excellency could afford. It is stated by these informants that the military and police forces which the Government has at present at its command in the city are not sufficient to cope with any formidable attack which might be made, and they have expressed to me their deep apprehension relative to the security of the foreign element in this city.

While I am sensible that your excellency's Government is at the present moment involved in the gravest difficulties, and while it gives me the greatest regret to intrude these matters upon your excellency's attention, I am obliged to say to you that in case of American lives or property being injured as a result of turbulent disturbances my Government will be obliged to assume, prima facie, that insufficient protection has been afforded and place upon the Mexican Government, in all cases of claims for damages, the burden of the proof to the contrary.

I avail, etc.,

HENRY LANE WILSON.

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[1] Not printed.

[Inclosure 2.]

The Minister for Foreign Affairs to the American Ambassador.

[Translation.]

DEPARTMENT FOR FOREIGN AFFAIRS,
Mexico, May 16, 1911.

MR. AMBASSADOR: I have your excellency's note of the 13th instant, by which you have been pleased to advise me of the fears of a large delegation of merchants and business men of the United States which called at the embassy on the above-mentioned date.

I can assure your excellency that the interests and persons of American citizens and members of other foreign countries in the City of Mexico are not in any way in danger of suffering any injury at all, as the necessary precautions have been taken to prevent not only the perpetration of attacks, but also the slightest disturbances.

Therefore your excellency may appease the minds of the merchants and business men who called at the embassy and inform them that the Government will endeavor by all means to avoid any danger for them; but in the remote case that an incident of that class should happen, your excellency may be sure that the Government will at the same time prevent the injury and try the case in accordance with the provisions of international law and in view of the circumstances attending the incident.

I reiterate, etc.,

F. L. DE LA BARRA.

File No. 812.00/1879.

The Secretary of State to the Mexican Ambassador.

No. 34.] DEPARTMENT OF STATE,
Washington, May 26, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 20th instant in which, by direction of your Government, you communicated to the Department a report that 12 Mexican Federal employees were driven from Tia Juana in the recent attack on that place, fled into the United States, and are detained by the local authorities of San Diego, Cal., where, it is alleged, three of them have been subjected to molestation, presumably by sympathizers with filibusters.

Agreeably to your request that these Mexican employees be set free, and that their molesters be punished if the report of their wrongful acts shall be verified, I have communicated your note to the Secretary of War and the Attorney General for investigation and appropriate action.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1880.

No. 35.] DEPARTMENT OF STATE,
Washington, May 26, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 19th instant, communicating to the Department a request of your Government that measures be taken to prevent Ricardo Flores Magón and others from enlisting men near the international boundary line for the invasion of Lower California.

Your Government's request has been communicated to the Secretary of War and the Attorney General for appropriate action.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1962.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO, *May 26, 1911.*

At 3.30 o'clock, of May 25, 1911, the President and Vice President resigned and Provisional President de la Barra issued a proclamation to the Mexican people. President Diaz left for Vera Cruz at 4.15 o'clock on the morning of May 26 on an armed train; he will sail for Europe. Nearly all the Científicos have left or are now leaving the country. Everything was quiet in the city. In the Chamber of Deputies, where Mr. de la Barra took the oath of office in the presence of the diplomatic corps, perfect order was maintained.

WILSON.

File No. 812.00/1881.

The Secretary of State to the Mexican Ambassador.

No. 37.] DEPARTMENT OF STATE,
May 27, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 13th instant in regard to the return of the arms, ammunition, and war material relinquished by the Mexican Federal soldiers who surrendered to United States troops during the military operations at Agua Prieta in April, and to say in reply that I have communicated your note to the Secretary of War and the Attorney General for appropriate action, and shall not fail to acquaint you with their decision in the matter as soon as possible.

Accept [etc.],

P. C. KNOX.

File No. 812.00/1984.

The Mexican Ambassador to the Secretary of State.

No. 1466.] EMBASSY OF MEXICO,
Washington, May 27, 1911.

EXCELLENCY: This embassy hears that a company of Mexicans at San Diego, Cal., righteously indignant at the constant raids of filibusters in Lower California and taking into consideration the difficulties of the Mexican Government in checking the aggressions of those malefactors while the Federal forces are wholly engaged in protecting the Colorado River works, resolved to go to Ensenada, Lower California, and assist in the maintenance of order.

Among the Mexicans who displayed such praiseworthy zeal not only in defense of the national territory but also of order, which is of equal advantage to Mexicans and foreigners, are Messrs. Dr. Horacio López and son, Manuel González, Martín Solís, José Jurado, Carlos Mendoza, and Juan Nieto, who tried to put to sea on the Mexican steamer *General Reyes* at San Diego, Cal., on the 25th instant, and were arrested by the authorities of San Diego, Cal., under circumstances indicative of ill will, as Dr. Horacio López and his companions were subjected to maltreatment in spite of their being unarmed.

In bringing this to your excellency's knowledge I need not call your attention to the gravity of the occurrence, for not only did those that effected the arrest board a boat flying the Mexican flag and arrest these gentlemen without just cause, but they detained them as if they belonged to an irregular band acting in contempt of the neutrality laws and not to a company of citizens lawfully engaged in defending their country against piratical attacks.

Besides the arrests made on board the *General Reyes*, Jesús Páez, Esq., and Manuel Labástida, a merchant, members of the junta mexicana, were arrested on the ground of having relations with the others.

These acts stand in contrast with the ease with which the filibusters can cross the boundary line there. Their boldness, as is known to your excellency, has reached the point of publicly bidding through the press of New York for the enlistment of men to invade Mexico; yet they are left free to carry out their criminal purposes while respected men, who are working for the common good, are deprived of their liberty. Wherefore Mexico could not hold itself responsible for the damage done by the said filibusters to the persons or property of the foreigners established in Lower California.

I am confident that your excellency, inspired with sentiments of justice, equity, and mutual considerateness existing between the two chancelleries, will be pleased to order that the facts herein related be thoroughly investigated, and that the persons arrested on board the steamer *General Reyes* and in the city of San Diego be immediately released.

I avail [etc.],

M. DE ZAMACONA.

File No. 812.00/2028.

The American Consul at Saltillo to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Saltillo, May 27, 1911—1 p. m.

Yesterday the State leader of Coahuila elected Oscar Garza, a banker, provisional governor, but Madero insisted upon election of Carranza, who was chosen this morning.

VOETTER.

The President to Provisional President de la Barra.

[Telegram.]

THE WHITE HOUSE,
Washington, May 27, 1911.

I extend to your excellency my hearty congratulations upon your elevation to the Chief Magistracy of the Republic of Mexico, confident that your conduct of the high office will conduce to the peace and welfare of Mexico and to the happiness and prosperity of the Mexican people.

WM. H. TAFT.

The Mexican Ambassador to the Secretary of State.

No. 1465.] MEXICAN EMBASSY,
Washington, May 27, 1911.

EXCELLENCY: In confirmation of my conversation of to-day's date with your excellency and in compliance with special instructions of my Government, I have the honor to inform your department that by reason of the resignation of the President and Vice President of the United Mexican States and by operation of the law the secretary of foreign relations, Señor Licenciado Don Francisco Leon de la Barra, will provisionally hold the office of President of the Republic.

I also have the honor to inform your excellency that the political situation of the country is notably improved and that it is to be hoped that all the groups in which opinion is divided will cooperate in the prompt restoration of order.

I renew, etc.,

M. DE ZAMACONA.

The Secretary of State to Provisional President de la Barra.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 27, 1911.

Having the most agreeable recollections of our intercourse at Washington, I beg your excellency to accept my personal felicitations on the confidence imposed in you by the Mexican Congress and my best wishes for the success of your administration.

KNOX.

Provisional President de la Barra to the Secretary of State.

[Telegram.]

MEXICO CITY, *May 28, 1911.*

Thanking you most earnestly for your friendly felicitations, I send you the most cordial wishes for the personal happiness of yourself, whom I hold in the most sincere regard, and for the welfare of the American Government and people.

DE LA BARRA.

Provisional President de la Barra to the President.

[Telegram.]

MEXICO CITY, *May 28, 1911.*

I am profoundly thankful to Your Excellency for the gracious felicitations you were pleased to send me on my provisionally assuming the office of President of the United Mexican States. I cherish the inmost confidence that the Republic will soon enter upon a new era of peace and progress, and I am resolved upon devoting my

every energy to the achievement of that end. I invoke the most cordial wishes for the personal happiness of Your Excellency, of whom I treasure so pleasing remembrance * * * and for the growing prosperity of the powerful Nation over which Your Excellency presides with so much wisdom and with which I desire that Mexico will continue to cultivate close relations.

F. D. DE LA BARRA.

File No. 812.00/2037.

The American Ambassador to the Secretary of State.

[Extract.]

No. 610.] AMERICAN EMBASSY,
Mexico, May 31, 1911.

MY DEAR MR. KNOX: * * * On the next Saturday [a week after the departure of President Diaz for Vera Cruz], May 27, the resident diplomatic corps, in compliance with advices from the foreign office, paid its first official visit to the Provisional President, and upon this occasion, as dean of the diplomatic corps, I made some brief remarks of congratulation to Mr. de la Barra (copy inclosed,[1] together with a copy of the reply thereto[1]). Since this event nothing of prime importance has occurred except the definite announcement of the new cabient.

I am [etc.],

HENRY LANE WILSON.

File No. 812.001/9.

The Secretary of State to the American Minister to Cuba.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 1, 1911—1 p. m.

The Department is informed that Gen. Porfirio Diaz, former President of Mexico, will arrive at Habana the latter part of this week en route to Europe. You are instructed to call on him with the legation staff and to express to him the best wishes of this Government for the welfare and happiness of himself, Madame Diaz, and the members of his family.

KNOX.

File No. 812.00/2075.

The American Ambassador to the Secretary of State.

No. 621.] MEXICO, *June 3, 1911.*

SIR: I have the honor to inclose to the Department herewith, for its information, in connection with the dangers to which it seemed Americans and American property would be exposed in the event of a mob outbreak in this city, a copy of my note to the Mexican

[1] Not printed.

foreign office in which it is intimated to the Mexican Government that unless adequate protection were afforded that Government would be held liable for all loss of life and damage to property.

I have [etc.],

HENRY LANE WILSON.

[Inclosure.]

The American Ambassador to the Minister for Foreign Affairs.

No. 545.] MEXICO, *May 13, 1911.*

Mr. MINISTER: Representations have been made to me to-day by a large delegation of American merchants and business men residing in the City of Mexico, relative to the inadequate protection which, in case of danger being threatened to life and property by the disorderly elements of society, the Government of your excellency could afford. It is stated by these informants that the military and police forces which the Government has at present at its command in the city are not sufficient to cope with any formidable attack which might be made, and they have expressed to me their deep apprehension relative to the security of the foreign element in this city.

While I am sensible that your excellency's Government is at the present moment involved in the gravest difficulties, and while it gives me the greatest regret to intrude these matters upon your excellency's attention, I am obliged to say to you, having in mind my duty to American nationals in this city, that in the case of American lives or property being injured as the result of turbulent disturbances my Government will be obliged to assume, prima facie, that insufficient protection has been afforded, and place upon the Mexican Government, in all cases of claims for damages, the burden of the proof to the contrary.

I avail [etc.],

HENRY LANE WILSON.

File No. 812.00/1963.

The Secretary of State to the Mexican Ambassador.

No. 45.] DEPARTMENT OF STATE,
Washington, June 6, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 24th ultimo, in which you ask that judicial proceedings be instituted against Ricardo Flores Magón and his associates in what you are pleased to term "the many scandalous filibustering attempts organized in territory of the United States against Lower California," and have taken pleasure in transmitting a copy thereof to the Attorney General, with a request that he take appropriate action in the premises.

The Department can not, however, fail to observe your statement (with which it must disagree) that there have been many scandalous filibustering attempts organized on territory of the United States against Lower California. As your excellency is well aware, the Government of the United States has been most vigilant in the measures which it has taken to insure the most complete observance not only of its international duties but also the strict enforcement of its own so-called neutrality statutes. These measures have involved an elaborate policing of the American side of the border, which has been maintained with marked efficiency, notwithstanding the conspicuous absence of similar measures upon the part of the Government of Mexico on its own territory, upon whom rests primarily the

responsibility of prohibiting the taking of arms and ammunition to Mexico or the landing of them at particular times or places, or the prevention of incursions of marauding or other bands of men. The absence of proper policing on the Mexican side of the border has been the more conspicuous because these matters of protection relate to the revenue and police regulations of the Government of Mexico, and it has never been recognized by international law that such regulations come within the rules regulating the conduct of other nations.

In this connection I desire to repeat the statement made in the Department's communication to your embassy of February 11, 1911, that almost all of the information which has been heretofore communicated to the Federal officers regarding alleged violations of the international rules of neutrality, as well as of the so-called neutrality statutes of the United States in connection with the disturbances in Mexico, has upon careful and minute examination proved to have been based upon groundless rumors, and that when the information has been based upon a substantial foundation the parties have been vigorously prosecuted.

I must therefore take occasion again to deny the intimation that there have been many scandalous filibustering attempts organized on territory of the United States against Lower California in violation of the so-called neutrality statutes of the United States, or of the rules of international law, during the recent disturbed conditions in Mexico; and, further, again to assert that so far as is known almost no illegal activity whatsoever has occurred on this side of the border, whatever the sympathies of the peoples of particular localities may have been, and that wherever such activity has occurred it has been vigorously prosecuted.

I need not assure your excellency that the Government of the United States will be glad in the future as in the past to exercise the greatest care in order that its obligations and laws may continue to be strictly observed.

Accept [etc.],

P. C. KNOX.

File No. 812.00/2101.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1509.] EMBASSY OF MEXICO,
Washington, June 6, 1911.

EXCELLENCY: The department of foreign relations orders me to request of your Department the permission of the United States Government in order that some Mexican troops may cross American territory on their way from Chihuahua to Lower California, where it is now necessary to gather military forces (elements) in order to suppress the robbery (bandolerismo), which has increased considerably within the last few days, to the unquestionable detriment of all legitimate interests located in the northern part of the peninsula.

While thus fulfilling orders from my superiors, I have, etc.,

M. DE ZAMACONA.

File No. 812.00/1970.

The Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
No. 46.] *Washington, June 7, 1911.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 24th ultimo in which, in connection with a report which you have received from the Mexican consul at San Diego, Cal., that the War Department has again ordered the release of Pryce, "declaring him to be an insurgent, that is to say, fighting for political reasons in Mexico," you state that it is your duty to say that the said Pryce is, like others you mention, an avowed filibuster and not an insurgent, and add that the raids of these men in Lower California are under the protection of no political flag, and that therefore the Government of Mexico will not deem itself bound to make good claims of any kind on account of damages caused by them, if the authorities of the United States on whatever ground leave them freedom of action, thus favoring, even though indirectly, those adventurers and making it easier for them to commit their assaults on property.

Without desiring to enter into any discussion or controversy with your excellency regarding the status of persons who take up arms and make war under the circumstances recited in your note now under acknowledgment, I beg to suggest for your excellency's consideration that the movement in Lower California appears to be the result of the activities of a Mexican political party; that it is reported that the avowed object of this Mexican party is the throwing off of Mexican authority and the establishment of a socialistic republic in Lower California; and finally that the subversion of one form of government and the establishment of another has, upon this hemisphere, been uniformly regarded as a political movement entirely irrespective of the propriety or justice of the cause espoused.

In view of these facts the Department is unable to understand the precise import of your statement that the movement in Lower California is under the protection of no political flag, and must dissent from the conclusion which you seem to reach that the Government of Mexico is not bound to make good claims of any kind on account of damages caused by such alleged filibusters. The international rule controlling obligations in cases of this kind seems on the contrary to be quite clear.

In this connection I might observe that it would appear from the information in the possession of the department that there must be in Lower California considerably fewer than 500 persons in arms against the Mexican Government, and that it seems inconceivable that so few a number as this could cause any really serious difficulty to your excellency's Government. I have no doubt that before this reaches your excellency steps will have been taken fully to meet the situation.

Accept [etc.], P. C. KNOX.

File No. 812.00/1984.

No. 47.] DEPARTMENT OF STATE,
Washington, June 7, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 27th ultimo, in which you complain of the arrest by the United States authorities at San Diego of the Mexican citizens Dr. Horacio López and son, Manuel González, Martin Solis, José Jurado, Carlos Mendoza, and Juan Nieto, who had embarked for Lower California to take part in the defense of its territory against filibusters. You add that Jesús Páez, Esq., and Manuel Labástida, a merchant, were arrested on the ground of complicity with the other persons mentioned, and request that the matter be investigated and the persons arrested be released.

Although your note bears the date of May 27, it did not reach the Department of State until May 31.

Inasmuch as the Department has been advised by the Attorney General of the United States that prior to the date of the receipt of your note by this Department you had, otherwise than through the regular channels of diplomatic communication, taken up this matter with the Attorney General, who had, at your request thus transmitted, issued appropriate instructions to the proper subordinate officer, an earlier reply to your note appeared to have been rendered unnecessary.

It seems from communications received from the Attorney General that you have been already advised by him to the effect that the United States attorney in southern California has been instructed by the Attorney General to take all possible steps to prevent any act in violation of this Government's so-called neutrality statutes, and particularly anything in aid of the advertised movement toward the conquest of Lower California.

In this connection, I must, however, take occasion to say that obviously the Government of the United States can scarcely undertake, as you seem to desire, to discriminate between the various more or less independent insurrectionary movements which from your note would seem to exist within the Republic of Mexico. Obviously this Department is not in a position to determine which, if any, of these movements are to be regarded as recognized insurrections and which, if any, are to be regarded as filibusters operating for ends and principles which the Government of Mexico can not approve. It is quite clear that these are questions concerning the Government of Mexico only, and that the Government of the United States, obviously able to entertain neither disfavor, sympathy, nor interest for any such movements, must treat and consider all upon identic basis.

This being the legal status of the present situation, it is unnecessary to say that the Government of the United States will continue in the future, as in the past, to observe a strict impartiality, at the same time using its utmost endeavors to the end that there shall be no violation either of its obligations under the principles of international law, or of the proper observance of its own so-called "neutrality statutes."

Again I should call your excellency's attention to the fact that in international law and under the Federal statutes of this Govern-

ment a very wide difference exists on the one hand between the passage of men singly and in small groups across our frontier and into another country, or the sailing of individuals or small groups in the ordinary course of events from one of our ports and on the other hand the departure from our territory of organized groups of men avowing the purpose of undertaking belligerent activities in foreign territory.

It would appear from the information furnished by you to the Attorney General that the men of whose arrest you complain were more or less regularly enlisted for the Mexican service within the jurisdiction of the United States—that is, in San Diego, Cal.; and, being so enlisted, constituted an expedition organized within American territory. Whether or not the organization of such an expedition, under the circumstances of this case, constitutes a violation of the so-called "neutrality statutes" of the United States is a question the determination of which is, by the Constitution of the United States, placed in our courts. It is not improbable that such an organization will be found to be not within the statute, and I raise the point merely to indicate to your excellency that prima facie and in absence of a judicial determination there seems to have been reasonable grounds for making the arrest complained of.

In this connection I must again repeat to your excellency that not only is there no rule of international law requiring, and no local Federal statute that would permit, the Federal officials of this Government to prevent the passage into foreign territory of unarmed and unorganized men either singly or in groups; but, on the contrary, it is an express provision of international law that the responsibility of a neutral power is not engaged even in time of recognized war by the fact of persons crossing the frontier separately to offer their services to one of the belligerents; and as to the mandates of municipal law, the courts of the United States have repeatedly declared that our neutrality statutes do not forbid one or more individuals singly or in unarmed, unorganized groups from leaving the United States for the purpose of joining in any military operations which are being carried on between other countries or between different parties in the same country.

Regarding the stress which your excellency lays upon the fact that certain of those whom you designate as filibusters are engaging in more or less newspaper propaganda in this country, I have to repeat the statement already made a number of times to your excellency's predecessor, that the carrying on of a mere propaganda either by writing or speaking does not constitute an offense against the law of nations, nor does it constitute an offense against the local law since freedom of speech and of the press is, under the Constitution of the United States, absolutely assured to those dwelling within its jurisdiction.

In order to bring such inflammatory propaganda within the statutes of the United States, it is necessary that some definite act or acts of which the mind can take cognizance be proved in addition to the mere words written or spoken, which even though indicative of the strongest desire and most determined purpose to do the forbidden act will not constitute the offense.

I need not point out to your excellency that this free speech and freedom of the press are two of the most sacred rights guaranteed

by the Constitution of this country; that they are absolutely inviolable rights; and that although it may for a moment appear that such rights should be to a greater or less extent curtailed, a continuous national growth and development of more than a century and a quarter demonstrates beyond the possibility of a doubt that the public intelligence necessary to a firm and permanent stability and progress requires that such rights shall remain inviolate.

Accept, etc.,

P. C. KNOX.

File No. 812.00/2096.

No. 48.] DEPARTMENT OF STATE,
Washington, June 7, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 1451, of the 25th ultimo, in which you request [etc.].

In reply, I have the honor to inform your excellency that the President has directed, subject to the acquiescence of the State of Texas, that permission be given to the Mexican troops to pass over American territory, it being understood that such troops shall travel unarmed, the arms being shipped as baggage. The President has also directed that a detachment of American soldiers shall accompany these Mexican troops as an escort. So soon as the acquiescence in this plan has been received from the authorities of the State of Texas you will be immediately advised.

Accept, etc.,

P. C. KNOX.

File No. 812.00/2101.

No. 49.] DEPARTMENT OF STATE,
Washington, June 7, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 1509, of the 6th instant, in which you request the permission of the United States in order that some Mexican troops may cross American territory on their way from Chihuahua to Lower California.

In reply I have the honor to inform your excellency that the President has directed, subject to the acquiescence of the States concerned, that permission be given to the Mexican troops to pass over American territory, it being understood that such troops shall travel unarmed, the arms being shipped as baggage. The President has also directed that a detachment of American soldiers shall accompany these Mexican troops as an escort. So soon as the acquiescence in this plan has been received from the authorities of the States through which these troops must pass you will be immediately advised.

Accept, etc.,

P. C. KNOX.

File No. 812.00/2096.

The Acting Secretary of State to the Mexican Ambassador.

No. 57.] DEPARTMENT OF STATE,
Washington, June 9, 1911.

EXCELLENCY: Referring to your note No. 1451, of the 25th ultimo, requesting that permission be granted by this Government for the transit of certain specified Mexican troops from El Paso, Tex., to

Laredo, Tamaulipas, and referring also to the Department's note No. 48, of the 7th instant, in reply, stating that the President was willing to grant permission for such transit, subject to the acquiescence of the governor of Texas, providing the troops were transported unarmed, their arms and ammunition being shipped as baggage, and the Mexican troops to be accompanied by a small detachment of American soldiers acting as an escort, I have the honor to say that the Department is now in receipt of a communication from the governor of Texas in which he states that the State of Texas has no objection to the transit of the troops named by you, under the conditions set forth by this Government.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.00/2101.

DEPARTMENT OF STATE,
Washington, June 10, 1911.

No. 58.]

EXCELLENCY: Referring to your note No. 1509, of the 6th instant, requesting that permission be granted by this Government for the transit of certain troops from El Paso, Tex., to Lower California, across American territory, and referring also to the Department's note No. 49, of the 7th instant, in reply, stating that the President is willing to grant permission for such transit, subject to the acquiescence of the governors of Texas, New Mexico, Arizona, and California, provided that the troops were transported unarmed, their arms and ammunition being shipped as baggage, and the Mexican troops being accompanied by a detachment of American soldiers acting as an escort, I have the honor to inform your excellency that the Department is now in receipt of communications from the governors of Texas, New Mexico, Arizona, and California in which they respectively state that there is no objection to the transit of the troops named by you under the conditions set forth by this Government.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.00/1923.

[Memorandum.]

Referring to the memorandum addressed by the Department of State to the Embassy of Mexico on the 13th ultimo, the Department of State has the honor to transmit herewith for the embassy's information a copy of a letter from the Attorney General, inclosing reports from the United States attorney at Waco, Tex., and the deputy United States marshal at El Paso, Tex., in relation to a report that on the 8th of that month shots were fired at the Mexican side from the American side of the international boundary, near Juárez.

DEPARTMENT OF STATE,
Washington, June 8, 1911.

[Inclosures.]

[The letter from the Attorney General and that from the United States attorney at Waco are merely letters of transmission; the report transmitted is

from Deputy Marshal H. R. Hillebrand, addressed to Marshal Nolte at San Antonio, and dated El Paso, May 12, 1911; it narrates the writer's personal investigation on the 8th and 9th of May, from which he found that no shots had been fired from the American side of the river and that there were no facts on which to base or warrant the report contained in the embassy's memorandum.]

File No. 812.00/2001.

The Acting Secretary of State to the Mexican Ambassador.

No. 54.] DEPARTMENT OF STATE,
Washington, June 8, 1911.

EXCELLENCY: Referring to your note of the 19th ultimo, communicating to the Department a request of your Government that measures be taken to prevent the enlistment of men in the United States for the invasion of Lower California, I have the honor to inform you that I am advised by the Attorney General, under date of the 30th ultimo, that this matter is already in the hands of the United States attorney at Los Angeles, to whom he has forwarded a copy of your note, with instructions to proceed appropriately in the premises.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.00/2000.

No. 59.] DEPARTMENT OF STATE,
Washington, June 9, 1911.

EXCELLENCY: Referring to your note of the 20th ultimo, in regard to a report that 12 Mexican Federal employees who had been driven from Tia Juana were being detained by the local authorities of San Diego, Cal., and that 3 of them had been molested there, by sympathizers with filibusters, I have the honor to inclose herewith for your information a copy of a letter from the Attorney General,[1] stating that he has instructed the United States attorney at Los Angeles to take such steps in the matter as may be appropriate.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.00/1951.

The Secretary of State to the Mexican Ambassador.

In further reply to the memorandum of the Embassy of Mexico of the 9th ultimo in regard to a report of the consul of Mexico at El Paso, Tex., that on May 8, 1911, several shots were fired from the American side of the Rio Grande at the Mexican side, the Department of State has the honor to inclose for the embassy's information copies of two letters from the Acting Secretary of War, transmitting reports from the commanding officer, district of El Paso, in reference to the matter.

DEPARTMENT OF STATE,
Washington, June 12, 1911.

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[1] Not printed.

[Inclosures.]

[There are nine reports transmitted by the commanding officer, all concurring in the statement that no shots were fired as reported.]

File No. 812.00/2075.

The Secretary of State to the American Ambassador.

DEPARTMENT OF STATE,
No. 387.] *Washington, June 20, 1911.*

SIR: The Department has received your No. 621 of the 3d instant and approves your course in addressing the note, a copy of which you inclose, to the Mexican foreign office, in which you intimate to the Mexican Government that, unless adequate protection should be afforded, that Government would be held liable for all loss of life and damage to property of Americans in the event of a mob outbreak in Mexico City.

I am [etc.],

P. C. KNOX.

File No. 812.00/2149.

Mr. D. C. Collier to the Secretary of State.

[Telegram.]

SAN DIEGO, CAL., *June 20, 1911.*

Responsible party here states insurrectos at Tia Juana will vacate at once and end trouble on peninsula if recognized as Madero insurrectos. Otherwise railroad and other property very likely will be destroyed and possibly lives sacrificed. Is it possible to have Mexican minister authorize such settlement?

D. C. COLLIER.

File No. 812.00/2156.

The Mexican Chargé d'Affaires ad interim to the Secretary of State.

[Translation.]

No. 1560.] EMBASSY OF MEXICO,
Washington, June 21, 1911.

EXCELLENCY: I have the honor to apply to the Department under your excellency's most worthy charge with a request that it be pleased to use its good offices to the effect that the proper authorities of San Pedro, Cal., will arrange to thwart the maneuvers of the Magonist junta at Los Angeles toward sending expeditions from that place to Lower California.

Thanking your excellency in advance for the orders you may be pleased to issue in furtherance of this request,

I have, etc.,

CARLOS PEREYRA.

File No. 812.00/2147.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

WASHINGTON, *June 21, 1911.*

Following telegram from consul at Acapulco:

Leader of armed force has made written demand for money upon an American named Jennings in charge of the Mexican Pacific here. Demand accompanied with threat of violence. There is much danger.

You will bring this matter suitably to the attention of the foreign office, calling attention to previous complaints and saying that while this Government appreciates the general difficulties and has no disposition to embarrass the Mexican Government in any way, it is obliged to look to it for adequate protection of American citizens resident in Mexico and will expect it promptly to take all necessary measures to this end.

KNOX.

File No. 812.00/1846.

The Secretary of State to the American Consul at Ciudad Juarez.

No. 85.] DEPARTMENT OF STATE,
Washington, June 22, 1911.

SIR: Having further reference to your dispatch No. 104, of May 13, 1911, concerning the capturing of Ciudad Juarez by the revolutionary forces, and especially to your action in affording asylum to a number of civil officials of that place at the consulate after the surrender of the city, you are informed that the Department is unable to approve your action in giving shelter to these officials in this instance.

This Government has remained an impartial spectator of the recent internecine conflict in Mexico, except in so far as this Government's interests or the interests of its citizens have been concerned, and the Department is of opinion that in accordance with this attitude you should have avoided taking any action which might have the appearance of interference with the political controversies of the Mexican Government, and that accordingly you should have declined to afford temporary refuge to the paroled officials of the city, especially in view of the fact that it does not appear that there was any urgent need of such action in order to preserve innocent human life.

I am [etc.],

WILBUR J. CARR
(For Mr. Knox).

File No. 812.00/2156.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 68.] DEPARTMENT OF STATE,
Washington, June 27, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, in which you request that the proper authorities of

San Pedro, Cal., be requested to arrange to defeat the maneuvers of the Magonist Junta at Los Angeles toward sending expeditions from that place to Lower California.

In reply I have the honor to inform you that the Department of Justice has been requested to take appropriate action in regard to the matter.

Accept, etc.,

P. C. KNOX.

File No. 812.00/2149.

No. 69.] JUNE 29, 1911.

SIR: I have the honor to advise you of a rumor which has been brought to the attention of the Department, to the effect that the recognition by your Government of the insurrectos at Tia Juana as Madero troops would end the trouble on the peninsula.

In this connection I have the honor to suggest that if political amnesty for the participants in disturbances in Lower California will put an end to present conditions, the taking of such steps would seem worth considering. Press reports, however, indicate that Mosby and his men have surrendered.

Accept [etc.],

P. C. KNOX.

File No. 812.00/2219.

The American Ambassador to the Secretary of State.

AMERICAN EMBASSY,
Mexico, July 11, 1911.

MY DEAR MR. KNOX: The fears expressed in my confidential dispatches of May 23[1] and May 31[1] that the situation which had been created by the success of the revolutionary movement of Mr. Madero might lead to a permanent disrespect for constituted authority and to a disturbance of established administrative methods have been to a considerable extent justified by the events which have been occurring throughout the Republic during the last 30 days and by the general discontent which prevails among all classes at the present moment.

In certain extensive parts of the Republic, notably the States of Guerrero, Sinaloa, Morelos, Puebla, Oaxaca, Vera Cruz, and Durango, conditions closely approaching anarchy prevail. In other parts of the Republic the Federal authorities are nominally in control, but even in those States where there is a considerable measure of Federal authority there yet exist numerous and frequent isolated cases of defiance of the law, of disregard for authority, of lack of respect for property rights, of violence and rapine. In some of the States which I have mentioned there have been as many as a half dozen governors in the short space of time which has elapsed since the fall of the Diaz Government, and it is not an uncommon thing for two, three, and even four governors to claim the exercise of executive functions in a single State at the same time. The same conflict of authority exists in a diminishing circle from the governor down to

[1] Not printed.

the pettiest local official, and it may be readily understood that the effect on public confidence in the localities where the evils exist is great and that the general apprehension created throughout the Republic is profound.

In addition to those conditions, serious enough in themselves, the economic situation steadily grows worse, and unless the Government shows greater firmness and more energy in meeting the difficulties which have arisen and are arising, instead of endeavoring to placate the, in many cases, fantastic demands of the industrial workers, there can be little hope of improvement. From one end of the Republic to the other— in the cities, in the mines, and on the plantations—the laboring classes have quit work and are making demands, in many cases accompanied by violence, for increases in wages and decreases in the hours of labor, which it is entirely beyond the power of the employing class to meet.

In many localities, too, whole communities are refusing to pay State and Federal taxes, claiming that it was part of the program of the revolution that the poor should be freed from the burden of taxation. There are many cases, too, where estates, to the title of which there is no question, have been forcibly taken possession of by large bodies of poor people, in the belief that the revolution had annulled all old titles and that the lands were to be restored to the people in common holding. It may readily be imagined that it will require energy, wisdom, and united councils to bring about the cure of the evils growing out of deluded opinions, misinterpretation of the idea of liberty, and the exaggerated pretensions of a laboring class which has suffered much injustice in the past, but which now seems incapable of dealing with its opportunities in a rational and practical way. If Mr. Madero shall not prove himself equal to dealing with this emergency, and if the conditions of lawlessness, violence, evil and conflicting administration, of general unrest and division in councils continue, the success of the nominal chief of the revolution in the October elections may hardly be placed beyond the possibility of conjecture or doubt. The political situation becomes more complicated every day and new and various party alignments, not yet clearly defined, appear to be taking place. It appears to be clear that a formidable opposition, partly public and partly secret, is springing up against Mr. Madero and that there is a gradual but distinct weakening of the ties which have connected him with some of his former strongest and most enthusiastic supporters. The cause of this discontent within the Maderist ranks is said be a growing conviction that that leader lacks in that decision of character, uniformity of policy, and close insight into situations which is so essential to leaders among men everywhere, but which is of especial need in Mexico in dealing with the abnormal conditions which prevail here. To begin with, the army is dissatisfied and almost openly disloyal, thus placing in question practically the only safeguard which exists at this moment against turbulence and lawlessness; then the Roman Catholic Church and the party which takes its name have become violently antagonistic to Madero and are busily engaged throughout the Republic in aspersing his motives, decrying his policies, and censuring the weakness and vacillation which is supposed to characterize his direction of affairs; then there are the remnants

of the old Cientifico Party—a party which is dispersed and discredited, but which, nevertheless, represents the wealth, the culture, and the historical traditions of Mexico—which will gladly add their support to any cause which seems likely to restore them, even in a moderate way, to the positions and the power they once enjoyed; then there is the large element of young and progressive politicians—usually close imitators of American ideas—which at first welcomed Madero as the destroyer of abuses, but which is now beginning to look upon him as a dreamer and false prophet; and, finally, there are large elements of the poorer classes who expected a new millennium with the advent of Madero and may now be easily influenced by any leader willing to promise them the fulfillment of the promises which they believed were made by Madero. Whether all these elements can be welded into a compact opposition under some such leader as Reyes may be esteemed doubtful, but the importance of their existence is shown in the fact that their opposition has become manifest and is growing in strength within 60 days after the triumph of the revolution.

I have met Mr. Madero upon several occasions and have endeavored to form some opinion of his character. He is insignificant in appearance, of diffident manners, and hesitating in speech, and seems to be highly nervous and uncertain as to his course in regard to many important public questions. He has, however, one redeeming feature—a pair of excellent eyes, which indicate to me earnestness, truthfulness and loyalty, and, it may be, reserves of strength of force of character which time may more fully reveal.

An excellent idea of his character as a thinker and a patriot may be formed from the reading of his book entitled "The Presidential Succession of 1910," which more than anything else was the cause of the revolution.[1] A translation into English of this book is now being made by my son, and I hope within the next week to be able to transmit a copy for the use of the President and the Department. It treats extensively of the system of government which had grown up under Diaz and of its abuses, of the history and the characters of many leading Mexicans, and of the theories and aspirations of Madero.

I am [etc.],

HENRY LANE WILSON.

File No. 812.00/2230.

No. 729.] AMERICAN EMBASSY,
Mexico, July 18, 1911.

SIR: I have the honor to inform the Department, in connection with the present disturbed conditions in this country, that President de la Barra stated in conversation yesterday that while he is somewhat concerned as to the various outbreaks that have occurred he is not greatly apprehensive, and that he intends from now on to abandon the policy of patience and toleration which he said conditions up to the present moment have indicated as being the best, and that he intends to deal sternly and drastically henceforth with disorders wherever they show themselves. He said that for this purpose he

[1] "La Sucesión Presidencial en 1910." Written in the latter part of 1908. In 1911 the third edition was published.

had selected as chief of the armed forces a man of great vigor and courage, who would be appointed in the very near future and would be given orders to ruthlessly suppress uprisings and obstreperousness of every kind.

It may be remarked that this decision of the President might have been taken to the great advantage of the country a week or two ago. If his present intentions are carried out, however, with discretion and in a thoroughgoing manner there seems to be no reason to doubt but that they will bring to the country a season, at least, of much more normal conditions.

In this connection I have the honor to inclose to the Department a clipping from the Mexican Herald of to-day's date,[1] giving the text of an interview which the President has given to the local press.

I have [etc.],

HENRY LANE WILSON.

File No. 812.00/2278.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 189.] EMBASSY OF MEXICO,
Washington, August 11, 1911.

EXCELLENCY: In reply to your excellency's note No. 69, of June 29 last, I have the honor to inform you under special instructions received by me from the department of foreign relations of my country that the Government of Mexico appreciates to their full value the Department's good offices in regard to the suggestion that a decree of political amnesty for the participants in the Lower California disturbances be issued; but it regrets its inability to accede to the friendly suggestion aforesaid, inasmuch as nearly all the disturbers of the peace there are aliens and also on account of their having expressly proposed to separate a part of its territory from the Republic, which acts are denounced by Mexico as grave attacks on the sovereignty and integrity of the country and which therefore must be averted with the full rigor of the law.

I beg, etc.,

GILBERTO CRESPO Y MARTÍNEZ.

File No. 812.00/2279.

[Translation.]

No. 198.] EMBASSY OF MEXICO,
Washington, August 14, 1911.

EXCELLENCY: The Government of Mexico has heard that Giuseppe Garibaldi, the well known agitator of whom so much has been said in the newspapers and now residing in the city of New York, has bought of the Winchester Co. 1,000 rifles that are ready to be forwarded to the Mexican Republic for the purpose of fomenting disturbances, and has instructed me to apply, as I hereby have the honor to do, to your excellency and ask that you will interpose your

[1] Not printed.

good offices to prevent the shipment of said arms, which are no doubt not intended for legitimate trade, but rather to infringe in a more or less devious way the neutrality of the United States to the injury of both the Mexican Republic and this country, for the undertaking of adventurers like Garibaldi against the peace and prosperity of friendly neighboring nations constitute a menace to the honest trade carried on by the United States with the said nations, and to the lawful interests whose stability rests on not having the highways of commerce converted into a means to the end of professional agitators in their criminal undertakings.

Duly thanking, etc.,

GILBERTO CRESPO Y MARTÍNEZ.

File No. 812.00/2279.

The Secretary of State to the Mexican Ambassador.

No. 15.] DEPARTMENT OF STATE,
Washington, August 17, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 198, of the 14th instant, in which you state that Giuseppe Garibaldi, a Mexican revolutionary agitator, has purchased from the Winchester Co. 1,000 rifles, intended, it is believed, for use against the established government in Mexico; and you request that this Government interpose its good offices to prevent the shipment of these arms to Mexico.

Your excellency's note has been copied to the Attorney General for his information and for such action, if any, as the law, facts and circumstances of the case may call for or warrant.

In this connection I should call to your excellency's attention that in view of the general conditions of peace which it is understood now exist within the borders of the territory of Mexico it is difficult to see in what way the mere commercial purchasing of arms and ammunition in New York City could, internationally speaking, be regarded as any violation of the neutrality of the United States toward the Mexican Republic; and, further, it seems quite clear that such purchase of arms and ammunition as a mere commercial transaction unconnected with any military expedition would not constitute a violation of the neutrality statutes of the United States, even if a state of war now existed in Mexico, and certainly would not fall within the purview of such statutes under the present conditions of peace, which it appears reign in your country. Upon these points I would respectfully refer to the various notes which I have heretofore had the honor to address to your predecessor, wherein the fundamental principles of the American law governing neutrality have been quite fully set forth.

Accept, etc.,

P. C. KNOX.

File No. 812.00/2290.

The Mexican Ambassador to the Secretary of State.

No. 224.] WASHINGTON, *August 17, 1911.*

EXCELLENCY: Under express instructions of my Government I have the honor to apply to your excellency and to inform you that a person by the name of Pino Suárez [1] is trying to send an expedition from New Orleans to some place in Mexico with war material which is said to include 3 rapid-fire guns and 60,000 cartridges.

I have also received instructions to inform the Department under your excellency's most worthy charge that Ricardo Flores Magón, the agitator who is operating in the State of California, has bought arms and ammunition to recruit men in the Imperial Valley.

I have to express my profound thanks to your excellency for kindly using your good offices to frustrate attempts of the aforesaid disturbers of the public peace.

I renew [etc.],

GILBERT CRESPO Y MARTÍNEZ.

File No. 812.00/2290.

The Acting Secretary of State to the Mexican Ambassador.

No. 18.] AUGUST 22, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 224, of the 17th instant, informing the Department that one Pino Suárez is attempting to send an armed expedition from New Orleans to some place in Mexico, and that Ricardo Flores Magón has bought arms and ammunition in the Imperial Valley, and requesting that the attempts of these two men be frustrated.

In reply, I have the honor to inform your excellency that a copy of your note has been sent to the Attorney General, for appropriate action.

Accept [etc.] HUNTINGTON WILSON.

File No. 812.00/2318.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 849.] MEXICO, *August 26, 1911.*

SIR: I have the honor to refer to my recent telegrams [1] relative to the situation confronting the central Government in the State of Morelos, where Emiliano Zapata, a self-instituted revolutionary chief, whose following consists of several thousand outlaws, criminals, and other undesirables, persists in keeping his men under arms

[1] Governor of Yucatán and candidate for Vice President. [2] Not printed.

in defiance of constituted authority, his purpose, if he can be said to have one, seeming to be to establish a band of outlaws such as existed in Morelos and Guerrero from 1840 to 1870 to prey upon the people and property of those States and to force his election as governor of Morelos at the next election. * * * Zapata has been an element of unrest since last spring. When Mr. de la Barra assumed the presidency he found he was not in a position to put a term to Zapata's activity and so bided his time, determining to ignore Zapata until he was in a position to deal with him once for all. Recently he felt that he was in such a position, had the power he needed, and that the moment had come, and accordingly Gen. Huerta's and various other commands were ordered into the State of Morelos for the purpose of disarming all of Zapata's followers still under arms. It was understood that no conditions were to be made and nothing but complete compliance with the Government's requirements was contemplated. The embassy does not know to just what extent the Government thought it necessary to take Madero into its confidence, but it seems clear that after its plans had been formulated he was advised of them and indicated that he would not interfere. At the last moment, however, he suddenly departed for Cuautla, the headquarters of the Zapata forces. * * * My colleagues and various members of the American colony, while admitting that politics may have had some influence upon him, see, rather, in his ill-judged action a touch of fanaticism and the work of an extremist. * * *

Mr. de la Barra, by his initiative, energy, and good judgment, has in a few months set the feet of the nation in the path of peace and normal conditions, and has by his rectitude won the confidence of all foreign representatives here and of the entire country. Confident in the essential rightness of his efforts to sweep away the last vestiges of disorder, his surprise and chagrin at seeing Madero in his capacity as private citizen calmly assume to step athwart the Government's path, take matters into his own hands, and treat with men known to be among the worst criminals in the Republic, can easily be imagined.

It is now generally conceded that Madero will be elected * * *. During my last conversation with the President I asked him what sort of a President he thought Madero would make. After deliberating a long time he said that he thought he would get along all right (irá bien) if he surrounded himself with able advisers. More than this he would not say.

I have [etc.],

FRED MORRIS DEARING.

File No. 812.00/2324.

[Extract.]

No. 875.] MEXICO, *September 1, 1911.*

SIR: With reference to the nomination of Mr. Francisco I. Madero for the presidency of Mexico by the Progressive Constitutional Party,[1] I have the honor to inclose to the Department, for its infor-

[1] On August 31.

mation, copies of a clipping from the Mexican Herald of the same date, giving a brief account of the various planks of the party platform.

I have [etc.],

FRED MORRIS DEARING.

[Inclosure.]

Progressive Constitutional Party's Platform.

[From Mexican Herald, Aug. 31, 1911.]

1. *Reestablish the constitution.*—To reestablish the dignity of the constitution, making effective the duties and rights which it prescribes and, likewise, to establish the independence of the powers of the federation and the responsibilities of public officials.

2. *No reelection.*—To carry out the principles of no reelection of the President and Vice President and to try to make the same reforms effective, in so far as relates to the election of governors of States; to make effective the requirements of citizenship of the Federal District, Territory, or State on the part of deputies and senators.

3. *Jefes must go.*—To secure the reform in the electoral law so as to make suffrage effective, and to secure greater breadth and liberty for the municipal authorities and to do away with jefaturas and political prefecturas.

4. *Free press.*—To arrange article 7 of the Federal constitution so as to make the liberty of writing effective.

5. *Education.*—To improve and increase public instruction and to remove the difficulties now in the way of the freedom of instruction.

6. *Prohibition.*—To improve the material, intellectual, and moral conditions of the laboring man, establishing schools for the instruction of arts and crafts, securing the promulgation of laws for the granting of pensions or indemnity in the case of accidents to workingmen, and to fight alcoholism and gambling.

7. *Indians.*—The same degree of interest shall be shown in the indigenous race in general, but especially in the Mayas and Yaqui Indians, returning the exiles to their respective places and establishing agricultural colonies on Government land for those who can be secured for such institutions.

8. *Mexicanization of railways.*—To hasten the Mexicanization of the railroads in all departments, establishing for this purpose the special schools which may be deemed necessary.

9. *Monopolies.*—To assist in the development of the national resources; to see that taxes are impartially imposed; to abolish the contract system and to combat all monopolies and special privileges, and above all to see that the public funds are used for the general good of the Nation.

10. *Agriculture.*—To encourage all agricultural and irrigation enterprises, but especially the small farmer, to which end a part of the public funds shall be appropriated. In regard to mining, industries, and commerce, they shall receive concessions which shall insure their development and prosperity.

11. *Army.*—To study and put into effect the most efficient means for the army, so that it may be better prepared for the exercise of the high mission of being the guardian of the national institutions and the defense of the honor and integrity of the Republic. As one of the principal means of accomplishing this end, military instruction will be given.

12. *Foreign relations.*—To strengthen the relations with foreign nations, especially with those of Latin America, and to direct prudently the policy of the Government so as to bring about the union of the Central American Republics.

New planks.—The clauses which have been added during the convention are:

I. *Judiciary.*—To reform the organization of the Federal courts, especially that of the Supreme Court of the Nation for the purpose of facilitating the business which comes under the jurisdiction of this department.

II. *Individual guarantees.*—To reform the laws of procedure in the civil and penal codes so as to expedite the business transactions and to give greater guarantees to individual liberty.

III. *Civil court.*—To reestablish the judicial protection (amparo) in all its amplitude in civil matters. These were previously restricted so as to serve the interests of tyranny.

IV. *Farm laws.*—To make laws which will be helpful in the establishment of and the support of small agricultural interests.

V. *Owners' protection.*—To form laws which shall guarantee the rights of possession and give greater protection of landed properties.

VI. *Taxes.*—To make fiscal laws which shall place an equal tax upon the large and small property owners.

To comply strictly with the laws of reform.

File No. 812.00/2345.

[Extract.]

No. 887.] AMERICAN EMBASSY,
Mexico, September 4, 1911.

SIR: I have the honor to report to the Department that with the nomination of Pino Suárez, of Yucatán, for the vice presidency on the ticket headed by Mr. Madero, the Progressive Constitutional Party brought its work to an end late Saturday night. The clippings from the local papers which have been forwarded to the Department from time to time will have given the Department a good account as to what took place at the various sessions of the convention, which, however, should be remarked especially on account of its significance as the first untrammeled political convention ever held in this country and the inferences that may be drawn from that fact. The embassy could not, of course, be present at any of the sessions, but it learns from impartial and interested observers whose opinion is worthy of respect that the convention really was free and open and that an admirable temper was displayed. The delegates who were allowed to sit had to show, according to the rules adopted, that they represented at least 100 voters, and this rule was strictly adhered to. The various sessions, while turbulent at times, were well conducted and each plank of the party platform was fully discussed before being incorporated. * * * A unique feature of the proceedings was the separate vote upon the vice presidential nominee. * * *

The convention seems to prove the possibility of free political assemblies, and if the expectations it encourages are not illusive, Mexico may be said to have made a great step in advance.

I have, etc.,

FRED MORRIS DEARING.

File No. 812.00/2338.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 319] EMBASSY OF MEXICO,
Washington, September 7, 1911.

EXCELLENCY: At the interview I had the honor to have on Saturday, the 2d instant, with the Acting Secretary, he had occasion to express to me the desire entertained by the Government of the United States as to the Government of Mexico's extending to the American citizens residing in that country, and particularly at Torreon, Coahuila, the full protection that may be necessary in the event of disorders taking place during the celebration of the national holidays on the 15th and 16th instant.

I have received information from my Government on the subject, and have the honor to transmit it to your excellency. It is to the effect that the Government of Mexico is giving its attention to the precautions to be taken for the effective protection of foreign life and property and that, according to the reports at hand and in view of the precautions aforesaid, there is reason to hope that there will be no disturbance.

I renew, etc.,

GILBERTO CRESPO Y MARTÍNEZ.

File No. 812.032/4.

The American Ambassador to the Secretary of State.

No. 948.] AMERICAN EMBASSY,
Mexico, September 19, 1911.

SIR: I have the honor to transmit to the Department the text in English and Spanish of the message read by President de la Barra on the occasion of the opening of the first period of the Mexican Congress, on the 16th instant, for the fiscal year 1911–12. The attention of the Department is especially called to that portion of the message which relates to the attitude of the Mexican Government concerning the payment of claims growing out of the recent revolution.

I have [etc.],

HENRY LANE WILSON.

[Inclosure.]

Message of President de la Barra to the Twenty-fifth Congress, Third Session, September 16, 1911.

[Extracts translated from the Diario Oficial, covering all references to the revolution and to the relations with the United States, except the Chamizal case.]

The relations of Mexico with other civilized countries have not changed in any way, in spite of the intense crisis which we have just passed. These relations continue on the same basis of sincere friendship on which they have rested many years, and there is nothing at present to cause fear of the loss of this invaluable advantage, so necessary for our moral and material development and for maintaining the position we hold in the concert of nations.

The Indemnity Commission [Comisión Consultiva de Indemnizaciones] as a prompt and effective medium for repairing as far as possible the damages suffered by nationals and foreigners during and due to the recent revolution, has been fully appreciated by all friendly Governments as a proof of the lofty spirit of justice that animates the Executive Power; and it is to be hoped that it alone will suffice for the settlement of all claims relative to citizens and to subjects of foreign countries, making improbable the diplomatic presentation of such claims.

The deplorable events at Torreon and Covadonga have required special methods of inquiry and rigorous application of the law.

The insurrection begun last November, of which an account was given in a previous message, came to its full development, counting as it did on public opinon, with the result that on the 21st of May an agreement was concluded at Ciudad Juarez between Government commissioners and representatives of the chief of the revolution, by which hostilities were ended throughout the Republic and arrangements made for mustering out the revolutionary forces according as public order should be restored.

Since then peace has de facto prevailed, save for the natural upheavals and isolated movements that always follow revolution, but which fortunately have

disappeared with the change of local authorities in the various States; and the Government is taking special pains for the orderly conduct of the coming elections so that the people will be amply protected in the exercise of their rights.

File No. 812.00/2384.

[Extract.]

AMERICAN EMBASSY,
Mexico, September 22, 1911.

MY DEAR MR. KNOX: Since my return on September 6 I have carefully watched the political situation in Mexico, with its attendant economic and moral phases, with the view of noting what, if any, changes in public conditions and tendencies have occurred during the last two months and what the indications are for the return of order, peace and prosperity to the Republic. I am glad to say that the hearty cooperation between President de la Barra and Mr. Madero has brought about a practical restoration of order in a very large part of the Republic, and that with the exception of the States of Sinaloa, Chiapas, Morelos, and Oaxaca the people are rapidly resuming normal and orderly ways, and the new officials, who represent to a very large extent the revolutionary party, are discharging the duties of their various posts with commendable prudence, firmness and energy.

It is hoped that the rebel army of the notorious chieftain, Zapata, which is now moving backward and forward between the States of Morelos and Oaxaca, may be captured, and that thus a formidable lesson may be given to all the other malcontent and depredatory elements in southern Mexico.

While order has been restored throughout the Republic except in the States and localities mentioned, a spirit of unrest, of nervous tension, of dissatisfaction with any and all political programs, of lack of respect for law and the constituted authorities prevails everywhere.

The political situation begins to clear, with the apparent certainty that Madero will triumph over all of his enemies in the primary elections to be held October 1, notwithstanding a considerable loss in prestige and political following. The intrigues of Francisco Vásquez Gómez and his brother, Emilio Vásquez Gómez—recently minister of gobernacion—have come to naught. Gen. Reyes, who came into the country as the nominal savior of the old Diaz régime, seems to have become a byword and a jest in the arena of politics. The Catholic party, after many vacillations, having finally approved the candidacy of Madero, would appear to be eliminated from the presidential contest.

In my judgment, unless it should develop that there are combinations and arrangements governing the control of Congress and the naming of the Vice President, the elections will result in the complete triumph of the Maderista elements.

I note with great satisfaction one phase of the situation here at the present moment, which is the almost complete disappearance of the evidences of any anti-American feeling or of expressed suspicions of the character of our policy toward this Republic. This is accompanied, moreover, by a higher measure of respect in the public mind

for our Government as such and a readier disposition by the Government to listen to and deal justly with American questions having merit and respectable support.

I am, etc., HENRY LANE WILSON.

File No. 812.00/2404.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Mexico, October 6, 1911.

Mr. Wilson reports that he is in possession of evidence, given him in confidence, of a plot of real magnitude to launch a counter revolution on October 15. Gen. Huerta is involved, with others, and is to be recalled to-day. At present he is in command of the troops sent against Zapata. Mr. Wilson thinks that numerous dismissals from the army and other branches of the public service will occur later.

File No. 812.00/2427.

[Telegram—Paraphrase.]

MEXICO CITY, *October 18, 1911.*

The practically unanimous election of Madero is insured by the now definitely ascertained result of the general elections of Sunday; also the election of Pino Suarez by a substantial majority. This insures complete carrying out of the revolutionary program.

WILSON.

File No. 812.00/2453.

[Extracts.]

No. 1034.] AMERICAN EMBASSY,
Mexico, October 27, 1911.

MY DEAR MR. KNOX: The presidential elections occurred [Oct. 1 and 15] throughout the Republic without any untoward incident, Madero and his running mate for the vice presidency, Pino Suarez, being elected. * * * It may be said that the elections, while free from the influences of official menace through the police and army, were nevertheless farcical in character and in a very small degree representative of Mexican public opinion.

In the meantime disorders in a large part of the country continue. The famous bandit Zapata is overrunning and terrorizing portions of the States of Veracruz, Puebla, Morelos, Guerrero, and Mexico, and formidable bands have committed all sorts of crimes within 40 miles of the gates of this capital city. At the time of the sending of this dispatch the reports are that the Federal Army has engaged a band of 800 bandits some 50 miles from the City of Mexico and that fighting is still going on. In the States of Tabasco, Chiapas, and Sinaloa there exist at the present moment revolutionary movements unconnected with Zapata but equally hurtful to the public order and the resumption by the people of peaceful pursuits. It is probable that there will be a subsidence immediately after the inauguration of Madero, to be followed later by a recrudescence of the disorders more formidable in character and over a wider territory, and that in response

to the first genuine movement of discontent with the new Government not one but many Zapatas will appear.

I went yesterday by appointment to see President de la Barra and had a most interesting and significant interview with him. He said that the principal reason for his asking me to pay him a visit was to inform me that his brother, Luis de la Barra, had left for the States, holding an informal and unofficial commission both from him and from President-elect Madero to visit Gen. Reyes at San Antonio with the purpose of inducing him to abandon his hostile and revolutionary attitude and for the sake of his country to return to Mexico and exercise his political rights as a citizen. This errand concluded, he said that Don Luis would go to Chicago for the purpose of interviewing President Taft and of explaining to him in his name and in the name of Mr. Madero the general situation in Mexico, especially as it related to American interests, the policy of the Government in domestic questions, and the necessity of the exercise of rigid prosecutions by our Government on the frontier to prevent violation of the neutrality laws by revolutionary agitators.

Continuing his conversation the President confessed confidentially to me his serious apprehension concerning the prospects of the Madero Government. The President believed that the announcement of the condition of the national exchequer would produce a profound and disagreeable impression on the country. He also saw a serious danger in the lack of fitness and equipment of Madero for executive work and the handling of large affairs. He hoped, however, that if the first six months of the new administration passed without trouble the country might settle down into normal conditions. I here advanced the opinion that I believed the danger would more likely come after six months than before, because it would require at least that much time for the administration to develop its policy and alignments.

In conclusion the President informed me that on account of the acute political situation which existed Mr. Madero would anticipate the time of taking charge of the Government and that probably he (De la Barra) would retire from office on November 3 or 4, leaving almost immediately for Europe for eight months' stay.

I have [etc.],

HENRY LANE WILSON.

File No. 812.001M26.

[Telegram—Paraphrase.]

MEXICO CITY, *November 6, 1911.*

On this date President Madero was inaugurated.

WILSON.

File No. 812.00/2483.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

No. 625.] MEXICAN EMBASSY,
Washington, November 10, 1911.

The Embassy of Mexico presents its compliments to the Department of State, and with the due reserves has the honor to inform

it that the Government of Mexico has serious reason for believing that the partisans of Gen. Bernardo Reyes, who is at San Antonio, Tex., are preparing within the territory of the United States an armed movement to stir up disturbances in the Mexican Republic, with men who are said to be organizing in this country, whence they would draw their war materials.

As the embassy believes that the Government of the United States is greatly interested in not having any disturbance of public order in the Mexican Republic, and as any attempt in that direction starting from within the United States would constitute a more or less direct violation of the American neutrality laws, the embassy ventures to ask that the Department of State will see fit to issue suitable orders to prevent the disturbances above referred to, confident that no matter what the plans of Gen. Reyes' partisans may be, the fear inspired by a determined attitude of the American authorities will bring about the dissolution of the nucleus of the conspiracy that has been set up in San Antonio, Tex., to the detriment of the most respectable interests seeking development within the shelter of a firm and lasting peace.

File No. 812.00/2495.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

MEXICO CITY, *November 15, 1911.*

Yesterday I had an interview with the minister for foreign affairs in which he informed me that definite information is now in the possession of his Government that an organized rebellion has been initiated by Gen. Reyes, who is now in American territory. The minister stated that his Government has information that many petty Texan officials are in collusion with Reyes, the sheriff of Webb County being mentioned in particular. The minister asked me to bring this condition of affairs to the attention of the Department of State, and that it be requested to enforce the neutrality laws of the United States under the most liberal interpretation possible, so as to prevent threatened attacks against the peace of a friendly Government from being organized on American territory, and that suitable representation be also made to the authorities of Texas. The Mexican Government is confident that it can deal successfully with the situation in southern Mexico and is taking, as I know, energetic measures to that end; but it is very greatly apprehensive about the situation on the frontier and is massing troops there. I earnestly recommend that energetic measures be taken on the border and that every possible assistance compatible with our laws be given to the Mexican Government.

WILSON.

File No. 812.00/2483.

The Secretary of State to the Mexican Ambassador.

[Memorandum.]

The Department of State presents its compliments to the Mexican Embassy and has the honor to acknowledge the receipt of the em-

bassy's note No. 625 of the 10th instant, calling attention to the alleged preparation within the United States of an armed movement by the partisans of Gen. Bernardo Reyes to initiate disturbances in Mexico, and requesting the Department to "issue suitable orders to prevent the disturbances above referred to."

The Department has been glad to copy the Mexican note to the Attorney General for his information and in order that he may take such action as he may deem necessary for the purpose of preventing any violation of our neutrality statutes. The Department respectfully calls to the attention of the Mexican Embassy the various statements regarding this subject which it has heretofore made in the recent correspondence regarding the attitude of the United States in the matter of the unfortunate civil disturbances which lately existed in Mexico, and particularly to observe that it will not be possible for this Government to take any action in the premises unless there be proof going to show that the statutes of the United States have been violated, but that it will endeavor by all proper means to secure the observance of its statutes.

DEPARTMENT OF STATE,
Washington, November 17, 1911.

File No. 812.00/2506.

The American Consul at Nuevo Laredo to the Secretary of State.

[Telegram—Paraphrase.]

NUEVO LAREDO, *November 18, 1911.*

Gen. Bernardo Reyes and other revolutionists and the sheriff of Webb County, Tex., were arrested to-day for violation of the neutrality laws. Every vestige of the revolution will be swept away in 10 days if this method is followed and if revolutionary property is confiscated.

GARRETT.

File No. 812.00/2507.

[Telegram—Paraphrase.]

NUEVO LAREDO, *November 19, 1911.*

Forty-five rifles and 20,000 cartridges captured to-day by commander of Fort McIntosh, also a lieutenant in the revolutionary army, who states he is commissioned by Gen. Reyes personally.

GARRETT.

File No. 812.00/2539.

The American Consul at Ciudad Porfirio Diaz to the Secretary of State.

[Extract.]

No. 387.] AMERICAN CONSULAR SERVICE,
Ciudad Porfirio Diaz, November 19, 1911.

SIR: I have the honor to advise that on the 18th instant Fred H. Lancaster, special agent of the Bureau of Investigation of the Department of Justice, sent the following telegram from Laredo, Tex.:

H. A. Thompson [Mr. Thompson is special agent in charge of the agents of the bureau], San Antonio, Tex.:

Gen. Reyes indicted by the Federal grand jury under section 13, chapter 2, and section 37, chapter 4, Criminal Code. Certified copy of indictment and copy of capias follows by to-day's mail. See Cresson [assistant United States district attorney] at once and arrest Gen. Reyes.

LANCASTER.

I have [etc.],

LUTHER T. ELLSWORTH.

File No. 812.00/2578.

The Mexican Ambassador to the Secretary of State.

[Telegram.]

MEXICAN EMBASSY,
Washington, December 3, 1911.

Complying with instructions by wire just received from my Government, I beg your excellency to be pleased to interpose good offices to prevent conveyance 5,000 rifles and several thousand cartridges bought in Philadelphia by Reyista Mexican, which are to be delivered express Houston and consigned to Maj. Campos, also Reyista, residing Houston, as telegraphed to Treasury Department by collector customs, Galveston. Matter was brought to the knowledge of clerk Federal court, Houston.

CRESPO.

[This telegram was telegraphed on Dec. 3 to the Attorney General.]

File No. 812.00/1458.

The Secretary of State to the American Ambassador.

No. 672.] DEPARTMENT OF STATE,
Washington, December 11, 1911.

SIR: With reference to your dispatch No. 479 of April 19, 1911, with which you transmitted a note bearing date of April 17, 1911, from the minister for foreign affairs of Mexico, wherein he makes certain allegations and comments concerning the battle of Agua Prieta of April 13, the Department has prepared a memorandum in refutation, which is inclosed herewith.[1] This memorandum is based upon the investigations instituted by the military authorities of the United States at Douglas in May last. All the documents referred to are on file, but it is hoped that as the record in the case is quite large it may not be necessary to have any copies made.

You are instructed when handing the original memorandum to the Mexican minister for foreign affairs to state to him that it is presented in the interest of truth and in order that there may be no misapprehension on the part of his Government of what really occurred at Agua Prieta on April 13 and 17, 1911, nor as to this Government's opinion regarding those incidents.

Should the minister for foreign affairs express surprise at the delay in replying to Mr. de la Barra's note of April 17, you may say that the information contained in the memorandum has been in the Department's possession since last spring, but that inasmuch as it

[1] Not printed. Consists of lengthy testimony, all tending to refute the Mexican allegations.

was desired to submit the memorandum solely in the interest of truth and without any intention of causing embarrassment to the Government of Mexico, the Department has awaited what it considered was a more opportune moment for presenting the evidence.

If you find it convenient or desirable you may also state that the battles of Agua Prieta do not constitute the only instances of violation of American territory by Mexicans during the recent revolution, as the Department has received reports of other occurrences of a similar though less serious nature.

You will have in mind in presenting this matter that while it is the Department's disposition to refrain from reviving a discussion the elements of which doubtless arose from misinformation as to the happenings incident to the abnormal and turbulent conditions existing at the time, this Government feels constrained to request the Government of Mexico to take due note of its absolute dissent from the allegations made and the views expressed by the then minister for foreign affairs.

I am, etc.,

P. C. KNOX.

File No. 812.00/2615.

The Secretary of State to the Mexican Ambassador.

No. 87.] DEPARTMENT OF STATE,
Washington, December 16, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your telegram of the 14th instant, which has been translated as follows:

Ambassador of Mexico has just received instructions to ask your excellency be pleased to interpose good offices to the end of obtaining that Mr. Jose Barthelow, agent American authorities at Laredo, proceed with all the activity case requires to execute orders; that he has apprehension Mexican insurgents.

In reply, I beg to inform you that I have communicated your request to the Department of Justice for its information and appropriate action.

Accept, etc.,

P. C. KNOX.

File No. 812.00/2619.

No. 89.] DEPARTMENT OF STATE,
Washington, December 20, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your telegram of the 15th instant, which has been translated as follows:

The Mexican ambassador greets sincerely the honorable Mr. Huntington Wilson, and notifies him that, fulfilling instructions from the department of foreign relations, he informs him that it is known that at Cajones, San Diego County, Cal., there exists a revolutionary junta, preparing an invasion of Lower California, and that Basilio Ramos is concealing arms. In asking him to be pleased to interpose the good offices of that honorable department, in order to avert said attempt at invasion, he reiterates the assurances of his most distinguished consideration.

In reply, I beg to state that I have taken pleasure in communicating the contents of your telegram to the Department of Justice for its information and appropriate action.

Accept, etc.,

P. C. KNOX.

File No. 812.00/2680.

The American Ambassador to the Secretary of State.

[Extract.]

No. 1176.] AMERICAN EMBASSY,
Mexico, December 30, 1911.

SIR: I have the honor to report that Gen. Bernardo Reyes, who voluntarily surrendered to a small detachment of Federal rurales at Ciudad Linares early on Christmas morning, was brought to this city on the 28th instant by a small detachment of soldiers and was immediately taken to the Santiago prison, where he will be confined until arrangements are made for his trial.

I have [etc.],

HENRY LANE WILSON.

File No. 812.00/2665.

The Mexican Ambassador to the Secretary of State.

[Memorandum—Translation.]

No. 799.]

The Embassy of Mexico presents its compliments to the Department of State and asks that it be pleased to interpose its good offices to cause the local and Federal authorities of Arizona to tighten the vigilance they have been instructed to maintain for the observance of the neutrality laws of this country. From reports recently received by the Government of Mexico it is known that along the border line both in Arizona and California there abound men who are adherents of or sympathizers in the doctrines propagated by the Flores Magón brothers and who constitute a disturbing element ever ready to cover up or support every movement against the Mexican Government.

EMBASSY OF MEXICO,
Washington, December 30, 1911.

OVERFLOW OF THE COLORADO RIVER INTO THE IMPERIAL VALLEY OR THE SALTON SINK REGION, CALIFORNIA, AND RESTORATION OF THE BROKEN LEVEES. PROPOSAL OF MILITARY COOPERATION FOR PROTECTION OF LEVEE WORKS. WAIVER OF CUSTOMS DUTIES.

File No. 3172/11.

The American Ambassador to the Secretary of State.

[Extract.]

No. 359.] AMERICAN EMBASSY,
Mexico, December 14, 1906.

SIR: I acknowledge the receipt of the Department's cablegram of the 11th instant, as follows:

THE WHITE HOUSE,
Washington, D. C., December 11, 1906.

AMERICAN EMBASSY,
Mexico, D. F.

Following telegram received:

Eight hundred feet of the levees built by the California Development Co. in connection with dam with which Colorado River overflow was recently stopped have given away, and the soil on which levees were raised is so porous that it looks as if they will be ulti-

mately destroyed. All of this work is in Mexico, but, as you know, for the benefit or development of Imperial Valley north of International Boundary. Southern Pacific has already advanced about $1,000,000 for this protection, and if Imperial Valley is to be saved it requires immediate stoppage of the crevasse with another dam and construction of some 20 miles of protection levee, involving expenditure of approximately $3,000,000. Matter is urgent and suggest whether our Government can not be induced to take this matter up immediately with Mexican Government for purpose of taking over entire work, which is now beyond capacity of individuals or corporations to handle. If flow continues unchecked it will eventually imperil town of Yuma and the Government dam at Laguna. Reclamation Service fully alive to danger. Wilcott can give you details. Will you not kindly take matter up vigorously along lines indicated.

You will urge upon Mexican Government necessity of immediate and effective action. You are directed to ascertain discreetly, without assuming liability and without committing this Government, whether Mexico is willing to allow the United States to enter upon the Mexican territory covered by concession to La Sociedad de Riegos y Terrenos de la Baja California (Sociedad Anónima). The question of liability may be discussed and considered later.

ROOT.

and confirm my reply as follows:

MEXICO, D. F., *December 14, 1906.*

Referring to your telegram of the 11th instant:

The Mexican President says La Compañía de Riegos y Terrenos de la Baja California has failed to meet its concession requirements and if that company on notice, which he says will be given at once, can not demonstrate its ability to control the Colorado waters, formal declaration of annulment of concession will without delay be served which can become effective in 15 days. He much deplores the situation and is very willing the United States Government should take up the work on Mexican territory, doing, under a permit from the Mexican Government, whatever is necessary to control the Colorado waters. Mexico would enter into a convention with the United States Government permitting waters needed to be taken from the Colorado across Mexican territory into American. The President is very decided in his opinion that no liability attaches to Mexico for any damages that have occurred, or may occur, and feels that Mexico can not stand any part of the expenses for controlling the river, but will do anything the United States Government may desire beyond this. In the event of annulment of concession, and the United States Government does not take up the work of control of the river, it is doubtful as to what action the Mexican Government would take.

D. E. THOMPSON.

I spent more than two hours yesterday with President Diaz, talking over the subject matter of the foregoing telegrams. During the last hour of the time Foreign Minister Mariscal and Minister of Fomento Aldasoro were with us. The President, as well as the two ministers, expressed the thought that the company to whom the concession for taking waters from the Colorado River in Mexico was given (La Compañía de Riegos y Terrenos de la Baja California), has acted in bad faith from the beginning, and it developed during the conversation that the Mexican Government is to at once make this company demonstrate its ability to do what it has undertaken to do in Mexico or cancel its concession.

The outcome of the conversation was that President Diaz said the Mexican Government would permit the United States to do anything the American Government might desire in the control of the Colorado waters in Mexico at or near the place of the present disturbance, and that the Mexican Government, should the American Government so desire, will enter into an agreement permitting the waters taken from the Colorado River in Mexico to be conducted through Mexico to the United States for such use as the American Government might desire to make of them; and the Mexican Government will permit any sort of an equipment to be brought into Mexico for the purpose of conducting the work in the event that it should be undertaken.

I am confident that should a company be organized that would be satisfactory to the American Government for the purpose of taking up the work of the present concessionaires, the Mexican Government could be prevailed upon to grant a new concession similar to the one now existing, or one of almost any other sort that the American Government would like to have.

The President and his two ministers felt that the Mexican Government should in no wise be thought of as being responsible for the existing conditions brought about by La Compañía de Riegos y Terrenos de la Baja California.

I have, etc.,

D. E. THOMPSON.

File No. 3172/36–42

[Extract.]

AMERICAN EMBASSY,
No. 375.] *Mexico, December 27, 1906.*

SIR: With reference to my No. 359, of the 14th instant, I acknowledge and confirm, respectively, the following telegrams from and to the Department of State on the subject of the control of the Colorado River:

WASHINGTON, D. C., *December 15, 1906*

THOMPSON,
American Embassy, Mexico:

We are much gratified by the attitude of the Government of Mexico. Keep us informed of the action looking to annulment of concession. Definite conclusion will probably be reached here within a short time looking to control of the Colorado, whether by action of the Government or of the parties interested. Immediately upon such determination we will communicate with you regarding suggested permit and any convention which may appear to be requisite.

ROOT.

Washington, D. C., December 17, 1906.

AMERICAN EMBASSY,
Mexico:

You will express to the Mexican Government this Government's appreciation of the good disposition of Mexican Government towards stopping flow of water from the Colorado River into Imperial Valley, as reported in your telegram of the 14th instant.

ROOT.

MEXICO, D. F., *December 21, 1906.*

SECRETARY OF STATE,
Washington, D. C.:

On the evening of 19th I received the following from minister for foreign affairs, it being a copy of an order from minister of fomento to the agent of the Colorado River Co.:

Under yesterday's date this department advised Licentiate Ignacio Sepulveda as follows: The chief of the Mexican Boundary Commission with the United States has informed this department by wire that one of the borders of the Colorado River has again broken, causing waters to take a new course toward Salton. As this occurrence is the result of the works carried into effect by the company you represent, and as the same is causing incalculable damages, this department urges the Compañía de Riegos y Terrenos

de la Baja California through you in order that without any loss of time and with the energy that the case demands it take action to close the open gap and return the waters to their old bed towards the Pacific Ocean. In the event that the works necessary to attain the above end are not carried into effect with all activity and in the manner required to reach complete success within the three months following this date, this department will take such steps as may be indicated.

I immediately called the attention of the foreign minister to the time that might be lost under the foregoing order. Last night I received the following from him: "I have arranged with the minister of fomento, with previous consent of the President, that he will immediately write or telegraph to Mr. Sepulveda that the company has to demonstrate within 10 days after notification of our engineer, Mr. Puga, and to the satisfaction of that engineer, their ability to control the waters in the manner explained in the last communication to their agent. Mr. Puga is or will be very soon on the frontier. Announcement is also made now to the company that if they fail to make the demonstration, measures will be taken as it may be expedient, meaning the withdrawal of the concession."

D. E. THOMPSON.

MEXICO, D. F., *December 22, 1906.*

SECRETARY OF STATE,
Washington, D. C.:

Referring to my telegram of yesterday: The following just received from ministry of fomento through the foreign office:

"Department of fomento, colonization and industry. This department has on this date advised the Campañía de Riegos y Torrenos de la Baja California as follows:

"In view of the representations made before our Government by the American ambassador in Mexico demonstrating the irreparable damages which property is liable to suffer in the Imperial Valley in case the overflow of Colorado waters continues toward Salton Sink, the President of the Republic has been pleased to order that a notification be served upon you, as I now do, with a view to give assurance to the Government of the United States that the present conditions will have a prompt, efficient, and radical remedy, for which purpose the Compañía de Riegos y Terrenos de la Baja California should demonstrate before and to the entire satisfaction of the chief of the Mexican Boundary River Commission with the United States, within the peremptory term of 10 days after being required by said chief, that the company possesses, has at its immediate disposal, and shall invest in the proper way, the capital, implements, laborers, and all such elements as may be indispensable to within the term of 3 months, designated for the purpose, control the situation of the Colorado River, close the open gap on its borders and definitely return the waters to their old bed.

"The same chief executive has ordered besides that you be told, as I now do, that in the case that the Compañía de Riegos y Terrenos de la Baja California does not give the demonstration in question, under the conditions and terms fixed, action will at once be taken to annul the concession granted to said company to divert the waters of the Colorado River, without prejudice to any other action which may be taken to remedy the evils caused and which are justly attributable to the same company.

"Which I have the honor to transmit to you for your information, begging you to give the chief of the Mexican Boundary Commission with the United States the instructions which the case demands to the end that he may be able to comply with the commission to which reference is made in the present writing."

I have, etc.,

D. E. THOMPSON.

Message from the President of the United States, relative to the threatened destruction by the overflow of the Colorado River in the sink or depression known as the Imperial Valley or Salton Sink region.[1]

[January 12, 1907.—Read; referred to the Committee on Foreign Relations, and ordered to be printed, with accompanying maps.

To the Senate and House of Representatives:

The governor of the State of California and individuals and communities in southern California have made urgent appeals to me to take steps to save the lands and settlements in the sink or depression known as the Imperial Valley or Salton Sink region from threatened destruction by the overflow of Colorado River. The situation appears so serious and urgent that I now refer the matter to the Congress for its consideration, together with my recommendations upon the subject.

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[1] For papers accompanying this message see S. Doc. No. 212. 59th Cong., 2d sess.; see also S. Doc. No. 103, 65th Cong., 1st sess., and annual reports of the Secretary of the Interior.

Briefly stated, the conditions are these: The Imperial Valley, so-called, in San Diego County, Cal., includes a large tract of country below sea level. Southeast of the valley and considerably above its level is the Colorado River, which flows on a broad, slightly elevated plane upon which the river pursues a tortuous course, finally entering the Gulf of California. The lands in Imperial Valley are 200 feet or more below the level of Colorado River. Down as far as the international border they are protected from inundation by low-lying hills. South of the boundary, in the Republic of Mexico, the hills cease abruptly, and only the broad low mud banks of the river protect the valley from being converted into an inland sea or lake. In order to get any water to this vast tract of fertile but desert land, or, on the other hand, to protect it from too much water, works of supply or of protection must be built in Mexico, even though they may tap the river in the United States. The United States can neither aid nor protect the interests of its citizens without going upon foreign soil.

Nature has through many centuries protected this great depression from overflow, but the restless river, constantly shifting, has annually threatened to break through the banks. Only a little human aid was needed to cause it to do so.

This condition has been long known, and through many years schemes have been discussed either to convert the Salton Sink area into a lake or to irrigate the desert lands below sea level by making a cut in Mexico through the west bank of the Colorado River. It was also well understood that if the cut in the bank was not carefully guarded the river would quickly get beyond control. Finally, after many plans had been tentatively tried, the California Development Company, a New Jersey corporation, actively undertook the work. To insure the safety of Imperial Valley the head of the canal on the river was first placed on United States territory near where the river was bounded by hills. The canal then swung southwest and west away from the river through Mexican territory to connect with natural depressions leading to the valley and back into the United States. The organizers of this company, in order to carry on the work in Mexico, caused to be created a subsidiary company in Mexico acting under Mexican laws. Concessions were granted to this company by the Mexican Government, and provision was made for the employment of a Mexican engineer, to be designated by that Government, in order to see that the work was properly carried out. The dangerous character of the attempt was thus recognized in this concession.

The California Development Company began its work by making representations to possible settlers of the great benefits to be derived by them by taking up this land. A large amount of money which might have been used in needed works was expended in advertising and in promoting the enterprise. The claims were not only extravagant, but in many cases it appears that willful misrepresentation was made. Many of the operations of this company and of its subsidiary organizations tended to mislead uninformed settlers. At first the success of the company was great, and it disposed of water rights to settlers at prices sufficiently large to obtain a fair revenue either in cash or in securities of value.

The money thus obtained from settlers was not used in permanent development, but apparently disappeared either in profits to the principal promoters or in the numerous subsidiary companies, which to a certain extent fed upon the parent company, or served to obscure its operations, such as a construction company, a company to promote settlement, and a company to handle the securities of the various other corporations. The history of these deals is so complicated that it would require careful research, extending through many months, to unravel the devious ways by which money and valuable securities have disappeared. In brief, it is sufficient to state that the valuable considerations which were received for water rights were obviously not used in providing necessary and permanent works for furnishing water to the settlers.

The whole enterprise and the spirit of those promoting it, as well as of the numerous smaller speculators attracted to the subsidiary organizations, were of the most visionary character. Actual investments made have been small in proportion to estimates of wealth which appeared to be possible of realization.

The company entered upon its construction work with large plans, but with inadequate capital. All of its structures for the control and distribution of water were temporary in character, being built of wood, and of the smallest possible dimensions. Through the efforts thus made a large amount of land was brought under cultivation, and at one time it was reported that over 100,000 acres were being more or less irrigated.

The first heading of the canal of the California Development Company was in the United States, immediately north of the Mexican border. It was found, however, after a time, that the heading on the United States side of the line did not give a grade to furnish sufficient flow of water, and, after headings had been opened at other points without successful results, a cut in the river bank was made 4 miles farther south in Mexican territory. This gave the water a shorter and steeper course toward the valley. The making of this cut in a bank composed of light alluvial soil above a depression such as this without controlling devices was criminal negligence. This short cut on Mexican soil was made in the fall of 1904. It was gradually eroded by the passage of the water, and in the spring of 1905 the floods of the Colorado River entering the artificial cut rapidly widened and deepened it until the entire flow of the river was turned westerly down the relatively steep slope into the Imperial Valley, and thence into what is known as Salton Sink or Salton Sea.

After the mischief became apparent strenuous efforts were made by the California Development Company to close the break, but these were without success. Finally the Southern Pacific Company, finding its tracks imperiled and traffic seriously interfered with, advanced money to the California Development Company, received as security a majority of the shares of the company, and thus took charge of the situation.

By means of the facilities available to the Southern Pacific Company the break in the west bank of the Colorado River was closed on November 4, 1906. A month later, however, a sudden rise in the river undermined the poorly constructed levees immediately south of the former break and the water again resumed its course into the Salton Sea.

The results have been highly alarming, as it appears that if the water is not checked it will cut a very deep channel which, progressing upstream in a series of cataracts, will result in conditions such that the water can not be diverted by gravity into the canals already built in the Imperial Valley. If the break is not closed before the coming spring flood of 1907 it appears highly probable that all of the property values created in this valley will be wiped out, including farms and towns, as well as the revenues derived by the Southern Pacific Company. Ultimately the channel will be deepened in the main stream itself up to and beyond the town of Yuma, destroying the homes and farms there, the great railroad bridge, and the Government works at Laguna dam, above Yuma.

It is difficult to estimate how many people have settled in the valley, the figures varying from 6,000 persons up to as high as 10,000. It is also difficult to ascertain how much money has been actually spent in real improvements. Town lots have been laid off, sold at auction, and several hundred buildings erected in the various small settlements scattered throughout the tract. The greater part of the public land has been taken up under the homestead or desert entry laws, and sufficient work has been done to secure title. Some crops have been raised, and under favorable conditions the output in the near future will be large.

The actual amount of tangible wealth or securities possessed by the settlers to-day upon which money can be raised is believed to be very small. Nearly all individual property has been expended in securing water rights from the California Development Company, or from the other organizations handling the water supply and controlled by this company. It is evident that the people have slender resources to fall back upon, and in view of the threatened calamity are practically helpless. The California Development Company is also unable to meet the exigency. The obligations assumed by the sale of water rights are so great that the property of the company is not adequate to meet these obligations; in other words, a gift of the visible property of this company and of its rights would not be a sufficient offset to the assumption of its liabilities. Nevertheless, the people in their desperation were reported as trying to issue and sell bonds secured by their property in order to give to the California Development Company a million dollars to assist in repairing the break.

The complications which have arisen from the transfer of the property and the involved relations of the California Development Company with its numerous subsidiary companies are such that the United States would not be justified in having any dealings with this company until the complications are removed and the Government has a full understanding of every phase of the situation.

It has been stated above that the California Development Company has not the financial strength to repair the break and to restore the bank of the Colorado River to such permanent condition that a similar occurrence can not happen. It is further understood that the Southern Pacific Company, having expended $2,000,000 or more for the protection of its interests, declines to furnish more money to the California Development Company to save the Imperial Valley, beyond controlling the present break in the river bank. The owners of the property in Imperial Valley, both farmers and townspeople, together with the Southern Pacific Company and the California Development

Company, have combined to call upon the Government for a contribution to assist the California Development Company to the extent of erecting permanent works to insure protection for the future.

If the river is not put back and permanently maintained in its natural bed the progressive back cutting in the course of one or two years will extend upstream to Yuma, as before stated, and finally to the Laguna dam, now being built by the Government, thus wiping out millions of dollars of property belonging to the Government and to citizens. Continuing farther, it will deprive all the valley lands along the Colorado River of the possibility of obtaining necessary supply of water by gravity canals.

The great Yuma bridge will go out, and approximately 700,000 acres of land as fertile as the Nile Valley will be left in a desert condition. What this means may be understood when we remember that the entire producing area of southern California is about 250,000 acres. A most conservative estimate after full development must place the gross product from this land at not less than $100 per acre per year, every ten acres of which will support a family when under intense cultivation. If the break in the Colorado is not permanently controlled the financial loss to the United States will be great. The entire irrigable area which will be either submerged or deprived of water in the Imperial Valley and along the Colorado River is capable of adding to the permanent population of Arizona and California at least 350,000 people, and probably 500,000. Much of the land will be worth from $500 to $1,500 per acre to individual owners, or a total of from $350,000,000 to $700,000,000.

The point to be especially emphasized is that prompt action must be taken, if any; otherwise the conditions may become so extreme as to be impracticable of remedy. The history of past attempts to close the break in the river bank has shown that each time, through delay, the work has cost double or treble what it would have cost had prompt action been taken. It is probable now that with an expenditure of $2,000,000 the river can be restored to its former channel and held there indefinitely; but if this action is not taken immediately, several times this sum may be required to restore it, and possibly it can not be restored unless enormous sums are expended.

At the present moment there appears to be only one agency equal to the task of controlling the river, namely, the Southern Pacific Company, with its transportation facilities, its equipment, and control of the California Development Company and subsidiary companies. The need of railroad facilities and equipment and the international complications are such that the officers of the United States, even with unlimited funds, could not carry on the work with the celerity required. It is only the fact that the officers of the Southern Pacific Company, acting also as officers of the California Development Company, have been able to apply all its resources for transportation, motive power, and the operation of the road that has made it possible to control the situation to the extent which they have already done. The Southern Pacific Company is now reported to be working strenuously to fill the break through which the Colorado River is flowing westward to the Salton Sea, and in repairing and building levees to keep out the high water due next March. This work will be more or less of a temporary character. Further construction is necessary, and all temporary works must be replaced by

permanent structures. It is estimated that for this additional work $2,000,000 should be available. The question as to what sum, if any, should be paid to the Southern Pacific Company for work done since the break of November 4, 1906, is one for future consideration; for work done prior to that date no claim can be admitted.

But one practicable course is now open for consideration.

The Southern Pacific Company must continue its work to close the break and restore the river to its proper channel. The United States can then take charge, making the protective works permanent and providing for their maintenance.

It is not believed that a free gift of this money should be made, as by its investment the stability of property of great value will be secured and the increase in land values throughout the Imperial Valley will be sufficient to justify the provision that this money should be returned to the Government.

The Reclamation Service should be authorized to take steps at once for the construction of an irrigation project, under the terms of the reclamation act, for the lands in the Imperial Valley and in the lower Colorado River Valley. The service should be in position to proceed actively with the organization of the project and the construction of the works as soon as the conditions in regard to the protection of the valley against overflow will justify expenditures for this purpose.

To accomplish this the United States should acquire the rights of the California Development Company and its subsidiary corporations in the United States and Mexico upon such reasonable terms as shall protect the interests of the Government and of the water users. The United States should obtain by convention with Mexico the right to carry water through that country upon reasonable conditions.

Most of the land in the Imperial Valley has been entered under the terms of the desert land act or the homsetead laws, and title has not passed out of the United States.

The construction work required would be: The main canal, some 60 miles in length, from Laguna Dam into the Imperial Valley; the repair and partial reconstruction of the present distribution system in the valley and its extension to other lands, mainly public; diversion dams and distribution systems in the Colorado River Valley, and provision for supplementing the natural flow of the river by means of such storage reservoirs as may be necessary. This would provide for the complete irrigation of 300,000 acres in the Imperial Valley and for 400,000 acres additional in the United States in the valley of the Colorado in Arizona and California.

The reclamation fund now available has been allotted for projects under construction, and the anticipated additions to the fund for the next few years will be needed to complete these projects. It will therefore be impossible to construct a reclamation project for the Imperial Valley with the funds now in hand, and it will be necessary for Congress to make specific appropriation for this work if it decides to undertake it.

Such appropriation would be expended for a project carried out under all the provisions of the reclamation act, requiring the return to the reclamation fund of the cost of construction and maintenance

of the irrigation works, and there should be the further requirement that the cost of permanent protective works and their maintenance be repaid.

The interests of the Government in this matter are so great in the protection of its own property, particularly of the public lands, that Congress is justified in taking prompt and effective measures toward the relief of the present situation. No steps, however, should be taken except with a broad comprehension of the magnitude of the work and with the belief that within the next ten years the works and development will be carried out to their full proportions.

The plan in general is to enter upon a broad, comprehensive scheme of development for all the irrigable land upon Colorado River with needed storage at the headwaters, so that none of the water of this great river which can be put to beneficial use will be allowed to go to waste. The Imperial Valley will never have a safe and adequate supply of water until the main canal extends from the Laguna Dam. At each end this dam is connected with rock bluffs and provides a permanent heading founded on rock for the diversion of the water. Any works built below this point would not be safe from destruction by floods and can not be depended upon for a permanent and reliable supply of water to the valley.

If Congress does not give authority and make adequate provision to take up this work in the way suggested, it must be inferred that it acquiesces in the abandonment of the work at Laguna and of all future attempts to utilize the valuable public domain in this part of the country.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 12, 1907.*

[Inclosure.] [1]

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, D. C., January 10, 1907.

SIR: In accordance with your oral request, I have the honor to submit the following statement in respect to the Colorado River-Salton Sea situation in southern California.

It may be assumed that one of three courses can be followed:

First. Let the entire matter alone for the individuals and corporations to handle as best they may.

Second. Request an appropriation of $2,000,000 from Congress and the privilege from Mexico to expend this money largely in Mexican territory in constructing and maintaining permanent works of protection along the west bank of the Colorado River.

Third. Have the Government take entire charge of the situation, develop its own lands, and protect the people in the Imperial Valley and in the vicinity of Yuma and in the valleys along Colorado River.

The third course is preferable, because it will bring about ultimately a full development of the public lands and of the resources of the country, and will add to its permanent population and prosperity. This course will involve the obtaining of appropriations of funds from time to time, which will ultimately be repaid. It will also be necessary to obtain from Mexico the right to carry a canal through Mexican territory and build protective works on the Mexican side of the boundary. It may also be necessary to make some concessions of water required for Mexican lands. We have heretofore estimated that in the

[1] For papers and maps accompanying this letter see S. Doc. No. 212, 59th Cong., 2d sess.

event the United States Government constructs the works, water to the extent of 600,000 acre-feet per annum could be furnished for Mexican lands, which would irrigate about 150,000 acres. If this is done, provision ought to be made for the repayment of the proper proportion of the expenditure necessary to furnish the water on the same basis as for lands in the United States.

In this connection it may be stated that full control and storage of the flood waters of Colorado River will result in obtaining an adequate supply of water, not only for lands within the United States but also for those in the Republic of Mexico, which can be reached by gravity canals from Colorado River. The average annual flow of Colorado River is approximately 11,000,000 acre-feet, and the entire demand for irrigable land which can be reached by gravity along the course of the river in the United States will probably not be more than 8,000,000 acre-feet To make this available, however, storage must be provided at the headwaters. There will thus be ample water to supply at least 150,000 acres additional in Mexico.

Unless Congress is prepared to enter upon a policy of protecting the lands and property of the United States and ultimately developing a comprehensive system of reclamation it does not seem to be wise to go into the subject further at present.

In the event of Congress deciding not to do anything it will be necessary to defer indefinitely the work on the Yuma project and the construction of the Laguna Dam, on which upward of $1,000,000 have already been spent. It will not be wise to make further expenditures, which will be jeopardized through failure to retain the river in its proper channel. If the river is put back in its channel by private enterprise, it will presumably be done in such a way that the relief will be of a temporary character and the irregularly occurring floods will in a short time make another breach in the banks at the existing points of weakness.

If the work of restoring the river to its proper channel should be undertaken by private parties in Mexico, there should be obtained from Mexico some assurance that the break will be patrolled and guarded at all times and that the individuals or corporations owning the lands and the works will be bonded in some effective way to maintain such protective works and also be required to show that they have the ability, financial and otherwise, to repair any break which may occur before it reaches dangerous proportions.

It is desirable to consider the advisability of asking Mexico to give assurance that no future artificial cutting of the west bank of the Colorado River will be allowed for any purpose whatever at any point where the interests of the United States may be jeopardized. It is believed that any cutting in this bank of soft mud at any such points will sooner or later be a source of danger and disaster to the Imperial Valley and to the lands along the lower Colorado. No such artificial cutting should therefore be permitted. On the contrary, levees should be constructed and maintained the entire distance needed for this protection, and so effectively located and built that the river can not possibly break over or through them. Any water taken from Colorado River for the irrigation of any tract lying west of this water boundary should be diverted only at points where the headworks can be founded upon solid rock.

Very respectfully,

CHAS. D. WALCOTT, *Director.*

THE PRESIDENT,
The White House.

File No. 3172/71.

The Secretary of State to the American Ambassador.

No. 397.] DEPARTMENT OF STATE,
Washington, January 29, 1908.

SIR: The Department would be pleased to have you suggest to the Mexican minister of foreign affairs that the Mexican Government appoint an engineer to meet a similar officer to be designated by this Government, for the purpose of seeing if they can agree as to the amount of water which the United States and Mexico are respectively

entitled to take from the Colorado River for irrigation purposes. It is further desired that the officers so appointed should consider and report upon the following matters:

1. The nature and character of the use of Mexican territory which would be necessary or advisable in order to enable the officers of the United States Reclamation Service to protect the reclamation works at the Laguna Dam.

2. In case the United States should acquire the rights of the California Development Co., the terms for an arrangement to be made with Mexico for the use of the existing canal rights owned by that company through its subsidiary Mexican corporation, and for the use of the bed of the Alamo River which connects this canal with the Imperial Valley.

3. If the United States Government should not acquire the rights of the California Development Co., the terms for an arrangement which might be made between the United States and Mexico as to the treatment which should be accorded to the Mexican corporation which has been organized as ancillary to the work of the California Development Co.

It should perhaps be observed in this connection that the amount of water which the Sociedad de Riego y Terrenos de la Baja California, S. A., is permitted by its concession to abstract from the Colorado River, is regarded by the officers of the United States Reclamation Service as being excessive. It should be added that the determinations which may be reached upon these questions by the officers whose appointment is proposed are not to be regarded as binding upon either Government, but are to be reported to the respective Governments to assist them in reaching the basis of an agreement for the mutually beneficial use of the waters of the Colorado River.

I am, etc.,

E. ROOT.

File No. 3172/73–75.

The American Ambassador to the Secretary of State.

No. 925.] AMERICAN EMBASSY,
Mexico, February 27, 1908.

SIR: I acknowledge the receipt of the Department's No. 397, of the 29th ultimo (File No. 3172/71), in which I am directed [etc.].

Copies of my note of the 11th instant presenting this matter to the attention of the minister for foreign affairs and his reply thereto of the 19th instant,[1] with translation, are inclosed.

I have, etc.,

D. E. THOMPSON.

[Inclosure.]

The American Ambassador to the Minister for Foreign Affairs.

F. O. No. 291.] AMERICAN EMBASSY,
Mexico, February 11, 1908.

Mr. MINISTER: I have been requested to convey to your excellency a suggestion that your excellency's Government appoint an engineer to meet a simi-

[1] Not printed; acknowledgment merely.

lar official designated by my Government for the purpose of inquiring into the matter of the amount of water which it may be considered that the two countries are respectively entitled to take from the Colorado River for use in irrigation. My Government desires me to say that the intent of this proposal is that the officers so appointed should consider and report to their respective Governments upon the following matters:

1. The nature and character of the use of Mexican territory which might be necessary or advisable in order to enable the officers of the United States Reclamation Service to protect the reclamation works at Laguna Dam.

2. In case the Government of the United States should acquire the rights now held by the California Development Co., the terms for an arrangement with the Government of Mexico for the use of the existing canal rights, owned by that company through its subsidiary Mexican corporation, and for the use of the bed of the Alamo River, which connects this canal with the Imperial Valley.

3. In case the Government of the United States should not acquire the rights now held by the California Development Co., the terms for an arrangement which might be made between the Government of Mexico and that of the United States touching the treatment which should be accorded the Mexican corporation, which has been organized as ancillary to the work of the California Development Co.

In this connection, I may say that it is considered by the officers of the Reclamation Service of the United States that the amount of water which the Sociedad de Riego y Terrenos de la Baja California, S. A., is permitted to abstract from the Colorado River under the concession is excessive.

It should be added to the suggestion which I have had the honor to convey to your excellency that the determinations which may be reached upon these questions by the officers whose appointment is proposed should not be regarded as binding upon either Government, but should be reported to the respective Governments to assist them in reaching the basis of some agreement for the mutually beneficial use of the water of the Colorado River.

Awaiting an expression of your excellency's opinion in this matter, that I may convey the same to my Government,

I avail, etc.,

D. E. THOMPSON.

File No. 3172/72.

The Acting Secretary of State to the American Ambassador.

No. 421.] DEPARTMENT OF STATE,
Washington, March 5, 1908.

SIR: On the 4th instant the Department sent you the following telegram:

Request Mexican Government to grant permission for a surveying party of not more than 10 persons to conduct a line of surveys on Mexican side of international boundary from vicinity of Colorado River westerly to vicinity of Calexico, in Imperial County, Cal. Request also free entry for outfit. The survey is in furtherance of construction of Laguna Dam by Reclamation Service.

For your full information in the matter I inclose herewith a copy of the letter from the Secretary of the Interior on which the telegram is based.

I am [etc.],

ROBERT BACON.

[Inclosure.]

The Secretary of the Interior to the Secretary of State.

DEPARTMENT OF THE INTERIOR,
Washington, February 28, 1908.

SIR: It is desirable to obtain, if practicable, permission from the Mexican Government for a small survey party, consisting of not to exceed 10 individuals,

to conduct a line of surveys on the Mexican side of the international border from the vicinity of Colorado River westerly to the vicinity of Calexico, in Imperial County, Cal.

There is now under construction by the Reclamation Service on the Colorado River, about 25 miles above the international boundary, what is known as the Laguna Dam. From this a canal line is being constructed on the west side southerly along Colorado River. This line if extended will reach the international boundary in the vicinity of Pilot Knob and at an elevation of some feet above the level of the present irrigating canal of the California Development Co.

It is desirable to know whether it is physically possible and practicable to continue this line through a portion of Mexico around the sand hills which lie along the border, then turning northward enter Imperial Valley at an elevation considerably above the level of the canals now irrigating lands in that valley.

There is known to be a large area of public land which might be reached by a high-line canal heading at Laguna Dam, and in view of future negotiations it is important to have facts as to the probable cost of the canal or ditch, if such should be constructed.

Very respectfully,

JAMES RUDOLPH GARFIELD.

File No. 3172/83.

The American Ambassador to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Mexico, April 2, 1908.

Your telegram March 4 and instruction 421, March 5. This Government concedes all asked.

THOMPSON.

File No. 3172/85–86.

[Extract.]

No. 984.] AMERICAN EMBASSY,
Mexico, April 2, 1908.

SIR: I inclose a copy and translation of the note from the foreign office, under date of the 31st ultimo, received to-day, upon which my telegram of this date was based.

I have [etc.],

D. E. THOMPSON.

[Inclosure—Translation.]

The Minister for Foreign Affairs to the American Ambassador.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 31, 1908.

MR. AMBASSADOR: I have the honor to reply to your excellency's note No. 221, dated February 11 last and to say, by direction of the President of the Republic, that with reference to the first point mentioned in said note the Government can not permit the occupation of national territory unless the Government of the United States confers an equal right on the Government of this country for the occupation of American territory.

With respect to the second point I must say to your excellency that the California Development Co., the holder of the shares and authorized by the department of fomento to utilize the waters of the Colorado River, can not transfer its rights to any foreign Government according to the stipulations of the contract.

And in conclusion, in regard to the third point, the said company will receive from the Mexican Government such treatment as it is entitled to pursuant to the same contract.

The President of the Republic, considering the advantages of making the proper studies for the distribution of the waters of the Colorado River, thinks it advisable to accept the appointment of the commissioners, to the end that the two Governments may properly utilize, and with equal rights, the waters of the aforesaid river, respecting such rights as have been created up to this time with respect to the use of the waters, with the understanding that the work of the commissioners shall serve as a basis for both Governments to treat and decide the matter appropriately. To that end, and as soon as your excellency informs me of the appointment of the American commissioner, my Government will name the person to represent it for the work in question.

I avail [etc.],

IGNO. MARISCAL.

File No. 3172/89.

The Acting Secretary of State to the American Ambassador.

No. 479.] DEPARTMENT OF STATE,
Washington, April 25, 1908.

SIR: Referring to your dispatch No. 984, of the 2d instant, I inclose herewith for your information a copy of a letter from the Secretary of the Interior expressing his views on the Mexican Government's reply of March 31 last to the proposal of this Government that a joint commission of engineers be appointed by the two Governments to examine into the equitable distribution of the waters of the Colorado River.

The Department concurs in the views expressed by the Secretary of the Interior and has designated Mr. Louis C. Hill, supervising engineer, Department of the Interior, as the "Commissioner on the part of the United States to study the questions in connection with the distribution of Colorado River waters."

You will notify the Mexican Government of Mr. Hill's designation.

I am [etc.],

ROBERT BACON.

[Inclosure.]

The Secretary of the Interior to the Secretary of State.

DEPARTMENT OF THE INTERIOR,
Washington, April 20, 1908.

SIR: Referring to your letters of April 10 (file 3172), April 15 (file 3172/85–86), inclosing copy of letter of February 11, 1908, from Hon. D. E. Thompson to the Mexican minister for foreign affairs, I note the statement with reference to the reply of March 31 from the Mexican department of foreign affairs.

It is there stated that the Republic of Mexico—

> can not permit the occupation of national territory unless the Government of the United States confers equal right on the Government of this country for the occupation of American territory.

I can see no objection to this proposition wherever like conditions arise. If the Mexican Government has within its borders a large population of several thousand people whose safety depends upon the building and adequate protection of dikes on the American side of the line, I should think it would be perfectly proper to grant to the Mexican Government the right to build or inspect such works as will protect the lives and property of its citizens, if the United States is not in a position to do so. Of course, it is evident that there is no such analagous situation which can or will arise. In my opinion, even if we should find such a condition, there can be no reason for refusing a request or reciprocity of this nature.

With reference to the second point, it is recognized that under the existing contracts the California Development Co. can not transfer its rights to any foreign Government; but there is nothing in the contract to prevent the Mexican Government from waiving this condition or entering into a new contract by which the rights of American citizens may be more adequately protected.

With reference to the third point, the United States has a certain duty in protecting the lives and property of its citizens in Imperial Valley, California, and its request upon the Mexican Government is simply that so far as it lies in the power of that Government every reasonable provision be made to protect the interests of its citizens in the United States where these are inseparably tied up with conditions on the opposite side of the border.

As the Mexican Government will join in sending a commission to study the questions in connection with the distribution of Colorado River waters and will appoint a commissioner, I recommend that, on the part of the United States, Mr. Louis C. Hill, supervising engineer, be designated.

Very respectfully,

JAMES RUDOLPH GARFIELD.

File No. 3172/92–94.

The American Ambassador to the Secretary of State.

No. 1054.] AMERICAN EMBASSY,
Mexico, May 8, 1908.

SIR: I hereby acknowledge the receipt of the Department's No. 479 of April 25 last, transmitting an expression of the views of the Secretary of the Interior, in which the Department concurs, on the Mexican Government's reply to the proposal of the United States that a joint commission of engineers be appointed to examine into the equitable distribution of the waters of the Colorado.

The Mexican Government has been notified of the designation of Mr. Louis C. Hill, supervising engineer, Department of the Interior, as the commissioner on the part of the United States to study the questions in connection with the distribution of Colorado River waters, and in reply has advised me of the appointment of Sr. Fernando Beltrán y Puga, chief of the Mexican Boundary Commission between Mexico and the United States, in a similar capacity.

I have [etc.],

D. E. THOMPSON.

File 3172/91.

The Acting Secretary of State to the American Ambassador.

No. 490.] DEPARTMENT OF STATE,
Washington, May 11, 1908.

SIR: Referring to your dispatch No. 984 of the 2d ultimo, I inclose herewith a copy of a letter from the Secretary of the Interior,[1] in which he states that it is now probable that the Laguna Dam surveying party will not start work until the fall and that in the meantime it is desirable to obtain any further authority or necessary documents for the carrying out of the proposed survey and examination, and he asks what steps, if any, are to be taken in the matter and

[1] Not printed.

requests the Department to procure copies of instructions authorizing the men in the field to cross into Mexico with their camp equipment, instruments, etc.

You will take the matter up with the Mexican Government, with a view to securing favorable action on Secretary Garfield's requests.

I am [etc.],

ROBERT BACON.

[PUBLIC RESOLUTION—No. 43.]

[S. J. Res. 120.]

Joint Resolution Making an appropriation to permit the President to protect lands and property in Imperial Valley, California.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one million dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the President for the purpose of protecting the lands and property in the Imperial Valley and elsewhere along the Colorado River, within the limits of the United States, against injury or destruction by reason of the changes in the channels of the Colorado River, and the President is authorized to expend any portion of such money within the limits of the Republic of Mexico as he may deem proper in accordance with such agreements for the purpose as he may make with the Republic of Mexico.

Approved, June 25, 1910.

File No. 3172/123A.

The Acting Secretary of State to the American Ambassador.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 23, 1910.

Urgent. Congress having appropriated $1,000,000 for the purpose of protecting lands against injury or destruction by changes in Colorado River and having authorized President to expend such portion of this sum as he may deem proper within the limits of Mexico under agreement with that Government, Mr. J. A. Ockerson, member of the Mississippi River Commission, has been designated to investigate and make recommendation in the matter.

Mr. Ockerson and party will immediately proceed to Yuma.

Ask Mexican Government to facilitate the movements of the party to and fro across the boundary line and in their travel in Mexico along the various channels of the Colorado River. Any data obtained by the party will be gladly furnished Mexican Government, and it is hoped that the party will receive the cooperation of any officers of the Mexican Government who may be in the vicinity.

You will bring the matter at once to the attention of the Mexican Government and report to the Department.

WILSON.

File No. 3172/126.

The American Ambassador to the Secretary of State.

No. 156.] AMERICAN EMBASSY,
Mexico, July 30, 1910.

SIR: I have the honor to transmit, herewith, a translation of a note from the Mexican foreign office of the 28th instant, which explains the action taken by the Mexican Government.

I have, etc.,

HENRY LANE WILSON.

[Inclosure—Translation.]

The Minister for Foreign Affairs to the American Ambassador.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, July 28, 1910.

Mr. AMBASSADOR: I have the honor to advise your excellency that, acting in accordance with the wishes of the American Government as expressed in the copy of the telegram you had the kindness to send me under date of the 23d instant, the President of the Republic has been pleased to direct that Mr. J. A. Ockerson and the persons who accompany him be given all possible facilities that will enable them to make their surveys and investigations along the Colorado River, in the case that they should have to cross the dividing line and study on the Mexican side the various canals by which the above-mentioned river is diverted; and to that end I am now requesting the department of gobernación, as well as the department of the treasury, that telegraphic instructions be given to the proper authorities, directing them not to prevent in any way the work of the American commission in question and that it be permitted the free entry of such supplies as it may bring with it for the purpose of its works.

I avail [etc.],

ENRIQUE C. CREEL.

File No. 711.1216M/134.

The Secretary of State to the American Ambassador.

No. 127.] DEPARTMENT OF STATE,
Washington, October 26, 1910.

SIR: The Department incloses herewith copies of two letters from the Department of the Interior, dated October 17, with inclosures consisting of copies of correspondence between that department and Mr. J. A. Ockerson, consulting engineer, and the report of Mr. Ockerson on the protection of lands and property in Imperial Valley, Cal., and elsewhere along the Colorado River, pursuant to joint resolution of Congress of June 25, 1910. A careful perusal of the inclosures to this dispatch will inform you fully as to the matter.

You will present this matter to the Mexican Government, and furnish it with a copy of the report of Mr. Ockerson, beginning at page 26 thereof in order to eliminate from the negotiations with Mexico any matter relating to the right to the waters of the Colorado River, since any discussion involving an agreement with regard to these waters would be likely to prolong the negotiations. You will request the consent of the Mexican Government to the erection of the desired levee on Mexican territory and express the desire of this Government

that the matter may be given urgency, since it is essential to the accomplishment of the purpose contemplated by the joint resolution of Congress that the work be proceeded with in all dispatch in order that the flood season of May and June, 1911, may be anticipated and avoided.

For your information a blue print of map showing the country in the proposed works and to be protected thereby is also inclosed.

I am, etc.,

(For Mr. Knox.)
ALVEY A. ADEE.

[Inclosure 1.]

The Secretary of the Interior to the Secretary of State.

DEPARTMENT OF THE INTERIOR,
Washington, October 17, 1910.

SIR: There is inclosed herewith copy of report of J. A. Ockerson,[1] consulting engineer, appointed by the President to examine the physical conditions and make recommendation as to the best method of accomplishing results indicated by the joint resolution of Congress of June 25, 1910, by which $1,000,000, or so much thereof as may be necessary, was appropriated to be expended by the President for the purpose of protecting the lands and property in the Imperial Valley (California) and elsewhere along the Colorado River within the limits of the United States, the President by such joint resolution being authorized to expend such portion of such money as he might deem proper within the limits of the Republic of Mexico, "in accordance with such agreements for the purpose as he may make with the Republic of Mexico."

The difficulty which was responsible for the congressional action referred to arose out of the break of the Colorado River from its accustomed channel to a point a few miles below the intersection of the south boundary line of Arizona with said river, and proceeding through a new channel, called the Rio Abejas, to and through Volcano Lake, from which latter the water naturally flows northward through the Imperial Valley to the Salton Sink and southward through the Hardy (Colorado) to the Gulf of California. Owing to the grade of the new channel being in excess of that of the old channel, and to the fact that the slope northward from Volcano Lake to the Salton Sink is vastly in excess of the slope southward from Volcano Lake to the Gulf of California, there are serious apprehensions as to the effect of permitting the river to follow this new channel; and the engineer, in his report, recommends as a protective measure the building of a levee some 25 miles long extending along the west bank and approximately parallel to the course of the river from a point about 6 miles south of the south line of the State of California, crossing and damming the Rio Abejas, diverting the water at present following the latter back to the original course of the river. The land upon which this structure is proposed to be constructed is entirely in the Republic of Mexico, and is owned by the Colorado River Land & Water Co., of which corporation Gen. Harrison Gray Otis and his son-in-law, Harry Chandler, of Los Angeles, are directors. The gentlemen just named have evinced a desire to facilitate in every way the works required. It is necessary that the consent of the Republic of Mexico be secured to the construction of a levee in the manner proposed by Engineer Ockerson, and preliminarily to the presentation of such request to said Republic negotiations were had with the corporation named by Mr. Ockerson, the result of which is set forth in letter of September 28 from the latter to Assistant Secretary Frank Pierce,[1] copy of which is herewith inclosed, and has been supplemented by telegram from Gen. Otis and Mr. Chandler,[1] the original of which is also herewith inclosed.

It is essential to the accomplishment of the purpose contemplated by said joint resolution that the work be proceeded with with all dispatch in order that the flood season of May and June, 1911, may be anticipated and avoided, and

[1] Not printed.

it is respectfully urged that appropriate steps be taken to accomplish the consent referred to.

This department is recently in receipt of telegraphic advice from Engineer Ockerson that map showing in detail the proposed work is on its way, which as soon as received will be transmitted for your information and use in any negotiations had pursuant hereto.

R. A. BALLINGER.

[Inclosure 2.]

DEPARTMENT OF THE INTERIOR,
Washington, October 17, 1910.

SIR: Supplementing communication of even date with reference to the proposed measures for protecting property in the Imperial Valley, California, and elsewhere along the Colorado River pursuant to joint resolution of Congress of June 25, 1910, appropriating $1,000,000 to be used by the President for that purpose, I inclose herewith copy of communication just received from Engineer Ockerson of October 10, 1910,[1] together with copy of telegram of the same date,[1] the former covering the matter of the consent of the Colorado River Land & Irrigation Co. to the utilization of such of its lands as may be necessary for the construction of levees proposed by Engineer Ockerson, and the latter suggesting that, if possible, there be eliminated from the negotiations with the Republic of Mexico any matter of the right to the waters of the Colorado River.

It is because of this latter suggestion that there has been delay in transmitting the papers to you as agreed with Solicitor Hoyt on the occasion of his recent conference with myself and the Assistant Attorney General for this department concerning the matter. It is understood from Mr. Ockerson that any discussion involving an agreement between the two Governments as to the division of the waters in the Colorado River for the purpose of irrigation would be likely to prolong negotiations to a degree which would injure the effectiveness of the proposed protective measures, hence the suggestion that all of his report preceding page 26 (relating, as it does, to the water flowage and kindred matters) be not submitted to the Mexican authorities. For your convenience two copies of Mr. Ockerson's report[1] are submitted, one bound and the other unbound. There is also inclosed blue print of map[1] showing the country involved in the proposed works and to be protected thereby.

R. A. BALLINGER.

File No. 711.1216M/135.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 7, 1910.

As the case is extremely urgent the President has requested the assistance of the Mexican ambassador to facilitate the securing of the permission from the Mexican Government to construct the works for the protection of the Imperial Valley and the control of the Colorado River. In order to do any good at all these works must be completed before March, otherwise great destruction will follow on the Mexican side of the boundary as well as on the American. The President has also asked the Mexican ambassador to obtain a waiver of customs and transportation charges imposed on materials used in the construction of these works in Mexico.

Use every endeavor to expedite the granting of this desired permission.

ADEE.

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[1] Not printed.

File No. 711.1216M/136.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, November 12, 1910.

I laid the Colorado River matter before President Diaz on November 7, pointing out its urgency, but because of the time required for making a copy of the plans it was not until the 9th that I communicated the matter to the foreign office. The foreign office replied today, saying that it would give an answer as soon as the plans had been properly studied. Another urgent note has been sent reemphasizing necessity for haste. Foreign office is in a state of great confusion.

WILSON.

File No. 711.1216M/139.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, November 22, 1910.

The embassy has received a note from the foreign office which states that President Diaz has no authority to permit the erection of levees or to grant free entry of materials for the work. The negotiation of a treaty is suggested and the Mexican ambassador at Washington has received detailed and specific instructions as to terms. Congressional action must be taken concerning the free entry of materials.

WILSON.

File No. 711.1216M/139.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 26, 1910.

The Government of the United States gladly accepts the suggestion that a joint commission be appointed to examine the Colorado River levee project, and you will request the Mexican Government to appoint at once its engineers and to instruct them to meet the American engineers at the site of the proposed works. The matter is extremely urgent, as in order to accomplish the desired purpose the work must be completed before the flood waters of the coming spring, and to accomplish this the work must be started no later than January 1. The entire scheme will be fully explained to the appropriate department of the Mexican Government by a representative of the Department of the Interior who will proceed at once to Mexico City for that purpose. The project appears as beneficial to Mexico as to the United States. This Government does not want to secure for itself any rights on Mexican territory, and only desires that Ameri-

can settlers be protected from the enormous losses which would follow the failure to erect the levee. This Government is entirely willing that the money should be expended by the Mexican company which owns the land where the levee is to be built. If such an arrangement is adopted, it will probably not be necessary to negotiate a treaty, because the United States will have no legal interest in the levee. In connection with the above it may be pointed out that the Cordova cut-off near El Paso, Tex., and Juarez, Mexico, was constructed on Mexican territory, and most of the money was furnished by the city of El Paso, and the two Governments did not negotiate a treaty, but merely indicated their consent. Make urgent representations to the Mexican Government, because the matter is urgent.

KNOX.

File No. 711.1216M/140.

The Acting Secretary of State to the Mexican Ambassador.

[Extract.]

DEPARTMENT OF STATE,
Washington, November 28, 1910.

Transmits a paraphrase of the above telegram of November 26 to the American ambassador, and suggests the negotiation of a treaty for the maintenance of the levee after it is completed.

File No. 711.1216M/148.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, December 1, 1910.

Full authority has been given to the Mexican ambassador at Washington to arrange with the Department an exchange of notes for the immediate construction of the protective works on the Colorado River. He has been fully instructed, in line with the wishes of the Department. The Mexican Congress will be asked at once to grant free entry of material.

File No. 711.1216M/153.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 381.] MEXICAN EMBASSY,
Washington, December 1, 1910.

EXCELLENCY: Referring to previous correspondence, I have the honor to inform your excellency that according to a telegram from the department of foreign relations just received by me, the Government of Mexico agrees not to have recourse to the treaty, and that a simple exchange of notes between this embassy and your Department

will be sufficient to authorize the construction on Mexican territory of the protective works on the Colorado River which may be necessary to prevent the flooding of said river on the territory of the so-called Imperial Valley.

As fundamental bases for the said agreement my Government proposes the following conditions:

(1) The protective works on the Colorado River shall be constructed by the Colorado River Land Co., owner of the land on which the works are to be erected.

(2) The said protective works to be made in accordance with the surveys and plans that the inspector appointed by the department of fomento may approve.

(3) In constructing the said works the rights of the riparian owners on both banks and of the persons to whom the Government of Mexico may have granted permits or concessions for the use of the waters of the Colorado River shall be safeguarded.

(4) The Government of Mexico does not guarantee the result of said works, nor will it accept any responsibility in the matter, either as to private persons or the Government of the United States.

(5) The Government of the United States, although it should give pecuniary or other aid to the Colorado River Land Co., shall not acquire thereby nor by this agreement any right of ownership or easement or any other right over any portion of the territory or over the said works that may be executed on Mexican territory the real rights and all other rights to which spring from the jurisdiction and sovereignty of the Government of Mexico.

(6) The Executive shall propose to the Mexican Congress the free entry of such material as may be needed for the construction of the protective works the object of said agreement.

Therefore, if your excellency's Government accepts the foregoing propositions, I shall hasten to so report to my Government in order to put the said agreement into final shape.

I beg [etc.],

F. L. DE LA BARRA.

File No. 711.1216M/148.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 3, 1910.

Engineer J. A. Ockerson, of the Interior Department, has been appointed by the President as commissioner to cooperate with the commissioner appointed by the Mexican Government to examine the conditions along the Colorado River and to consider the construction of the proposed protective levee. Information as to time and place of meeting will be sent later.

A satisfactory plan has been presented to the Department by the Mexican ambassador. Express appreciation and gratification to the Mexican Government for the prompt consideration given to this matter, and say that a clause is desired in the agreement specifying free entry of subsistence, supplies, tools, equipment, appliances, and

material for the construction of the levee, it being understood that any material remaining unconsumed when the work is completed will be reimported into the United States.

KNOX.

File No. 711.1216M/153.

The Secretary of State to the Mexican Ambassador.

No. 354.] DEPARTMENT OF STATE,
Washington, December 3, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 381 of December 1, containing the information that your excellency's Government agrees not to have recourse to the treaty, and that a simple exchange of notes between the embassy under your excellency's worthy charge and this Department will be sufficient to authorize the construction on Mexican territory of the protective works along the Colorado River which may be necessary to prevent the flooding of the Imperial Valley. As fundamental bases for the said agreement, your excellency states that the Government of Mexico proposes the following conditions [etc.]:

In reply I have the honor to express the deep appreciation and thanks of this Department for the prompt attention given to this matter by your excellency and by the Government of Mexico.

Your excellency's note was communicated to the Secretary of the Interior, who replied under yesterday's date that he found the proposals entirely satisfactory, but suggested that paragraph 6, regarding the free importation of material be in terms made to include materials for subsistence, supplies, equipment, tools, and appliances, as well as materials used in the construction of the proposed work, it being thought that all these were intended to be included in the paragraph referred to. It will, of course, be understood that all such materials taken into Mexico by the contractors shall be used exclusively by them, and that such as are not consumed shall be returned to the United States at the completion of the work.

I have the honor also to repeat to your excellency the suggestion made in the Department's note of November 28, that inasmuch as the levee to be permanently useful must be maintained in a state of adequate repair, this Department would be glad at once to take up with your excellency the question of the negotiation of a treaty in accordance with the provisions of which the proper maintenance of this levee might be accomplished.

Accept [etc.],

P. C. KNOX.

File No. 711.1216M/155.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 401.] MEXICAN EMBASSY,
Washington, December 7, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 354 of the 3d instant by which your excellency was pleased to inform me that [etc.].

My Government, to which I hastened to telegraph in the matter, declares it sees no objection to asking of the Congress the free importation of the aforesaid articles with the exception of the materials for subsistence and supplies.

Begging your excellency to be so good as to let me have your Government's final reply as soon as possible, as our Congress is soon to adjourn,

I renew [etc.],

F. L. DE LA BARRA.

File No. 711.1216M/155.

The Secretary of State to the Mexican Ambassador.

No. 361.] DEPARTMENT OF STATE,
Washington, December 9, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 401 of the 7th instant, conveying the information that [etc.].

I beg of your excellency to accept the expression of this Government's gratification over the friendly and considerate attitude of the Mexican Government in this matter.

The Department notes with regret, however, the suggestion that there appears to be some objection to admitting free of duty materials for subsistence and supplies. In this connection, I beg to direct your excellency's attention to the fact that as the work is to be done by the Mexican company over whose land the levee will be constructed, it is certain that the company will insist upon furnishing to the contractors such supplies as they are able to furnish, which it would appear are principally beef and beans, together with the forage for such animals as may be used in the construction work. There may, however, be a number of articles of food and general supplies which can not be furnished by the Mexican company, and which, owing to the great distance from the Mexican markets and the lack of transportation facilities, will have to be imported into Mexico from the United States. As your excellency will readily perceive, the duties upon such materials of subsistence and supplies may constitute a considerable item in the matter of the contractor's bid, which will have of necessity to be considerably higher if he is to make allowance for the payment of customs upon such articles, and this will of course operate to reduce the money which can be put into the actual construction work of the levee itself. As this fund is at best barely adequate to meet the expenses of this work, the payment of customs might be found to have an unfavorable effect upon the proper construction of the levee.

I therefore sincerely hope that the Government of Mexico will find upon investigation that the granting of such privilege of free importation will not be incompatible with Mexican interests.

I also have the honor to bring to your excellency's attention the fact that the Secretary of the Interior has requested this Department to approach you upon the matter as to whether or not, should the necessary congressional authority for free importation be delayed, it will be possible for your excellency's Government to arrange for the accumulation of duties without requiring payment thereof, in order

that if the suggested legislation is finally adopted by the Mexican Congress the accumulated duties may be formally remitted, and thus avoid the necessity of a formal refunding of duties paid.

I should be glad if your excellency would consult the Government of Mexico as to its pleasure upon both of these points.

Accept [etc.],

P. C. KNOX.

File No. 711.1216M/163.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 455.] MEXICAN EMBASSY,
Washington, December 16, 1910.

EXCELLENCY: I have the honor to inform your excellency that, according to a telegraphic communication from the secretary of foreign relations, the Government of Mexico has seen fit to appoint Engineer Señor Fernando Beltrán y Puga to be inspector of the Colorado River protective works that are to be carried out by the "Colorado River Land Co."

I beg [etc.],

F. L. DE LA BARRA.

File No. 711.1216M/163A.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 17, 1910.

In its note to the Mexican Embassy the Department requested that should the necessary authority by the Mexican Congress for free entry of materials be delayed, the Mexican Government make an arrangement by which the payment of duties may be deferred, and if the suggested legislation is adopted they may be formally remitted. To avoid delay the Department of the Interior is now paying duties.

Engineer Ockerson states that he must have some formal document from the Mexican Government to show his authority to enter Mexico. It is also necessary that formal instructions be given to the Mexican customs officers to admit without bond locomotives, pile drivers, supply trains, animals, and general equipment and to permit the running of trains at night and on holidays. Endeavor to arrive at an arrangement with the foreign office about these matters at earliest possible moment.

KNOX.

File No. 711.1216M/165.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, December 19, 1910.

Replying to Department's telegram of December 17. In order to cover legal formalities of the agreement President Diaz insists that

the exchange of notes between the two Governments must take place before any further action can be taken; also that a representative of the company in whose name the work is to be done be designated to arrange the details of free entry of materials with the Mexican department of finance.

WILSON.

File No. 711.1216M/167.

The Department of State to the Mexican Embassy.

Oscar Lawler, Esq., Assistant Attorney General for the Interior Department, is proceeding to Mexico City as special agent of the President to complete arrangements regarding free importation and filing of the necessary bond for the Mexican company, the Colorado River Land Co. It is hoped, should there be any delay in the arranging of a permanent bond, that the Government of Mexico will be able to see its way clear to accept a temporary bond, to be replaced by the permanent bond when finally agreed upon.

It is further suggested that for such goods as will remain dutiable under the exchange of notes arrangements be made for the designation of an officer of the Mexican Government and an officer of the Customs Service of the United States mutually to check or invoice goods as they cross the line, and that upon such invoicing the commodity involved be transported expeditiously to destination upon the assurance of the Government of the United States that the duties leviable thereon will be paid through its proper disbursing officer appointed for the purpose of paying out the fund appropriated to accomplish the protective works involved. In view of the great urgency existing regarding the completion of this work it is hoped that the Mexican Government will be able to enter into some such arrangement as set forth.

DEPARTMENT OF STATE,
Washington, December 24, 1910.

File No. 711.1216M/167.

The Acting Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, December 24, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note No. 464 of the 20th instant,[1] in which, in accordance with the previous correspondence exchanged between this Department and the Mexican Embassy and also in accordance with your conversations with the Secretary of State, you present the bases of an ar-

[1] Not printed.

rangement for the construction in Mexican territory of the protective works necessary to guard the Imperial Valley in California, and other places, against floods of the Colorado River.

The bases as set forth in your excellency's note are the following:

1. The works shall be constructed by the Colorado River Land Co., owner of the land on which said works are to be accomplished.

2. The said works shall be done in accordance with the surveys and plans approved by the inspector appointed by the department of fomento, Engineer Don Fernando Beltrán y Puga.

3. In the construction of the said works the rights of the riparian owners on both banks and of the persons to whom the Government of Mexico may have granted permits or concessions for the use of the water of the Colorado River shall stand unimpaired.

4. The Government of Mexico does not guarantee the result of said work nor assume any responsibility to private persons and, much less, to the Government of the United States.

5. The Government of the United States, even though it should aid the Colorado River Land Co. pecuniarily or otherwise, shall not acquire thereby or by virtue of this agreement, any right of ownership or servitude, or any other, or [sic] over any part of the territory, or over the works that may be erected in Mexican territory whose rights, real or of any other nature, shall reside in the jurisdiction and sovereignty of the Government of Mexico.

6. The Executive shall propose to the Congress of the Union of the Mexican Republic the free entry of the machinery, beasts of burden, wagons, building material, field tents, tools, implements, and equipment necessary for the construction of the said works, as soon as the Colorado River Land Co., which is to construct them for its own account and in the capacity of a Mexican company, which is the only one legally competent to make all the arrangements conducive to the exemption of duties on imports, applies therefor, it being expressly understood that free entry will not be granted to food products or to supplies consumed by the said company in that respect.

I have the honor to inform your excellency that the Government of the United States finds satisfactory and accepts the above bases of an arrangement for the construction in Mexican territory of the protective works necessary to guard the Imperial Valley against the floods of the Colorado River, and that the engineers appointed by the President of the United States are proceeding to their work under and and in accordance with these bases. I also have pleasure in informing you that I shall be glad to take up with you, so soon as the situation has been more developed, the arrangement of various details which will present themselves in the practical carrying out of this work, as also the question suggested in my communication to you of November 28, in which it is stated that inasmuch as the levee, to be permanently useful, must be maintained in a state of adequate repair, this Department would be glad to undertake with you the negotiation of a treaty which would provide for the maintenance of the levee after it is completed.

Accept [, etc.],

HUNTINGTON WILSON.

File No. 711.1216M/188.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 533.] MEXICAN EMBASSY,
Washington, December 30, 1910.

EXCELLENCY: Referring to your excellency's note of the 24th instant relative to the construction of the Colorado River defensive works, I have the honor to inform you that my Government having been informed by me that your excellency's Government accepts the bases proposed by Mexico for the construction of the said works, the secretary of foreign relations telegraphed me that the treasury department will permit the importation of machinery and material under the conditions that will soon be communicated to me.

Assuring your excellency that I will hasten to communicate these data to your Department as soon as I receive them,

I beg [etc.],

F. L. DE LA BARRA.

File No. 711.1216M/194.

[Translation.]

No. 569.] MEXICAN EMBASSY,
Washington, January 4, 1911.

EXCELLENCY: Referring to the Department's note of December 24 last, and in compliance with special instructions of the department of foreign relations, I have the honor to inform your excellency that my Government does not consider the maintenance of the Colorado River defensive works to be a proper subject for a treaty, since the agreements relative thereto are to be embodied in the contract to be made by the Government of my country with the Mexican company builder of the said works.

The exchange of notes between the Department and the embassy fixing the general bases for the execution of the works having now been effected, my Government holds that all the other agreements must be exclusively arranged between the building company and the Department concerned.

I renew, etc.,

F. L. DE LA BARRA.

File No. 711.1216M/193.

[Memorandum—Translation.]

MEXICAN EMBASSY,
Washington, January 5, 1911.

The ambassador of Mexico has the honor to inform his excellency the Secretary of State that according to a telegram received by him from the secretary of foreign relations of his Government, the printed specifications prepared by the American engineer, Mr. J. A. Ockerson, for the contract relative to the construction of the Colorado River defensive works are radically contrary to the fundamental bases for the execution of said works as they appear in the notes last exchanged between the Department and the embassy.

The Government of Mexico therefore hopes that the specifications above referred to will be withdrawn as it considers it could not permit the Colorado River Land Co. to do work on those conditions.

File No. 711.1216M/193.

The Department of State to the Mexican Embassy.

[Memorandum.]

The Department of State has received from the Mexican ambassador a memorandum dated the 5th instant, in which it is stated that the printed specifications prepared by Engineer Ockerson for the construction of the levee along the west bank of the Colorado River, for the protection of Imperial Valley and other places, are radically contrary to the fundamental bases for the execution of said work as they appear in the notes last exchanged between the Department of State and the Mexican Embassy, and that the Mexican Government could not permit the work to proceed under the printed specifications.

The Department of State understands from the ambassador's statement made on the evening of the 5th instant to the Secretary of State, and repeated on the morning of the 6th instant by telephone to the Solicitor for the Department of State, that negotiations have been instituted between the ambassador and Gen. Marshall, of the Department of the Interior, looking to the adjustment of the difficulties to which reference has been made.

DEPARTMENT OF STATE,
Washington, January 6, 1911.

File No. 711.1216M/203.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 615.] MEXICAN EMBASSY,
Washington, January 9, 1911.

EXCELLENCY: Referring to the aide mémoire the Department of State was pleased to send me under date of the 6th instant in respect of the Colorado River defensive works, I have the honor to apprise your excellency—although I suppose that the Department of the Interior has already done so—that in conferences I had with Brig. Gen. Marshall, representing the Secretary of the Interior, the substantial modifications in the documents prepared by Engineer Ockerson[1] were agreed upon so as to bring them into harmony with the bases arranged between your Department and this embassy.

[1] Extract from letter of Mr. Lawler to the Secretary of the Interior, Jan. 5, 1911: "The objections advanced [by the Mexican Government] were to the recitals as to the source to which the contractor must look for compensation. * * * Mr. Creel's contention was that these provisions secure to the United States rights in Mexican territory contrary to the agreement heretofore made through the State Department." (File No. 711.1216M/202.)

Gen. Marshall, who recognized the justice of the observations presented by my Government, was pleased to state that telegraphic orders would be sent to Mr. Lawler in accordance with the agreement reached at the said conferences.

I venture to express my belief that the negotiations between the two Governments bearing on the matter considered in this note ended with my conferences with Gen. Marshall, inasmuch as the defensive works on the banks of the Colorado River are to be exclusively the subject of agreements between the Mexican company that is about to build them, are without any international character whatever, and therefore the adjustment of all matters that may hereafter arise will be exclusively subject to the concessions granted to the Colorado River Land Co. and to the pertinent provisions of law.

I take [etc.],

F. L. DE LA BARRA.

File No. 711.1216M/203.

The Secretary of State to the Mexican Ambassador.

No. 402.] DEPARTMENT OF STATE,
Washington, January 26, 1911.

EXCELLENCY: With reference to the note of your excellency of January 9, 1911, concerning the contracts made or which may be made by the Colorado River Land Co., S. A., a Mexican corporation, with the contractors engaged or who may be engaged to do the work projected to protect the Imperial Valley and other lands located on the banks of the Colorado River, I have the honor to say that Mr. J. A. Ockerson, C. E., as attorney for that company, probably made use of the name of the Government of the United States of America in those contracts only with the object of assuring their most efficient fulfillment on the part of the contractors and also to comply with certain fiscal requirements of our laws, inasmuch as those contracts were made in this country; but it was never intended to create by those contracts any rights in favor of this Government to the ownership of the land nor, of course, to its sovereignty nor any other rights to any portion of the Mexican territory nor to the works to be built on it, as it has already been decided and agreed upon by this Government and the Government of the United States of Mexico that the said works shall be executed by the Colorado River Land Co., a Mexican corporation, in accordance with the authority granted to said company by the Mexican Government and under the inspection of an engineer appointed by your Government, it not being deemed necessary to give such works any international character. The agreement was fully ratified in the exchange of the note of your embassy of December 20, 1910, and of that of this Department of December 24, 1910.

But to make this statement still more clear, this Government declares that the references made to the United States of America in the contracts, which references are objectionable to the Mexican Government, have no legal value in any case in which they may be in opposition to the agreement made by the two Governments concerning the works of protection to be executed by the Colorado River Land Co.

Accept, etc.,

P. C. KNOX.

File No. 711.1216M/218c.

The Department of State to the Mexican Embassy.

[Memorandum.]

Some days ago the Department asked the attention of the Mexican Embassy to the necessity in the interest of both Governments to insure the work on the Colorado River against molestation by the insurgents, and requested the embassy to bring this apprehension to the notice of the Mexican Government with a view to its taking the necessary measures, and at the same time intimating that unless protection could otherwise certainly be assured the Government of the United States would be prepared to cooperate with the Government of Mexico by using its own military forces for the common purpose.

No reply has yet been received from the embassy.

To-day unofficial reports reach the Department to the effect that the situation has suddenly changed; that the insurgents have recaptured Mexicali; that the insurgent leaders intend to raid the grading camps, to entice the Mexican workmen to join them, to drive off the work animals, and to destroy the property. The same reports allege that the work is at a critical stage, that delay would result in heavy and useless expense, and that the property and work already accomplished are in certain jeopardy.

In these disquieting circumstances the Department again and very urgently requests of the Mexican Embassy the earliest possible information as to whether the military cooperation of the United States is needed to insure the common interests of the two Governments in a work which both would be unwilling to have placed in jeopardy as a result of the existing insurrection.

DEPARTMENT OF STATE,
Washington, February 12, 1911.

File No. 711.1216M/221.

The Mexican Embassy to the Department of State.

[Note verbale—Translation.]

MEXICAN EMBASSY,
Washington, February 14, 1911.

This embassy received day before yesterday the note verbale of the Department of State, dated the 12th instant, in which it is stated that for the protection of the defensive works of Imperial Valley now going on in Mexican territory the Government of the United States would lend its military cooperation to that of Mexico in safeguarding their common interests in an undertaking which both countries wish to keep free from the insurgents' attacks.

As the chargé d'affaires had the honor to say to the Assistant Secretary at his interview to-day, the Government of Mexico has instructed the embassy to advise the Department that Col. Don Celso Vega has been given orders to station his command at the place where the Colorado River works are in progress and has further been authorized to increase his force to the number necessary to insure complete safety.

The Mexican Government highly appreciates the United States Government's friendly offer to have its forces cooperate in the protection of the works, but does not deem it necessary to have recourse to that benevolent disposition, and furthermore the Senate alone could, under the constitution of Mexico, authorize the passage of American forces into the territory of the Republic.

The Government of Mexico believes that if the frontier facing Mexicali is guarded by American troops, if the prohibition to send arms into Mexican territory for the rebels is enforced by the legal method, and if the practical result of preventing the supply of provisions to the highwayman who under political pretenses keeps the region in a state of unrest can be achieved, it will be easy to maintain order and duly protect the employees and laborers of the Colorado River works.

The Mexican Government also believes it important to recommend to the governor of California that he be pleased to give instructions for the authorities of that State to cooperate in an efficacious manner and prevent any violation of the neutrality laws.

File No. 711.1216M/224a.

The Department of State to the Mexican Embassy.

[Aide Memoire.]

The Department has been advised through its embassy at Mexico that President Diaz and the minister for foreign affairs of Mexico desire that Col. Vega, military commander of the northern district of Lower California, should proceed at once to the place of the present works upon the Colorado River levee with 200 men with a view to protecting said works from any disturbances whatsoever and that Col. Vega will be instructed to purchase arms, ammunition and provisions in Yuma to equip these men for this purpose.

It is assumed from the statements of the Mexican Government that the mission of Col. Vega is to organize and equip a special protective force for the preservation of the Colorado River works from interruption by disaffected parties, thus operating as a special armed constabulary force rather than as a part of the military operations of Mexico in that region.

Understanding that the activities of Col. Vega will be wholly confined to the protection of the Colorado River levee works in case it should be sought to interfere with such works, the Government of the United States has no objection whatsoever to the proposed commercial purchase of arms, ammunition and provisions in Yuma to equip this detachment of men.

It does not appear whether or not it is desired to transport these men to the Colorado River levee over American territory or within the Mexican boundary. Should it however be desired to transport them over American territory the Government of the United States, acting with the governor of Arizona, will be pleased to grant facilities for such transportation to Col. Vega with 200 men to go to protect the Colorado River works, it being understood that such men shall be used for no other purpose whatever.

DEPARTMENT OF STATE,
Washington, February 14, 1911.

File No. 711.1216M/232.

The Mexican Embassy to the Department of State.

[Memorandum—Translation.]

MEXICAN EMBASSY,
Washington, February 16, 1911.

The memorandum handed by the Hon. Mr. Wilson to the chargé d'affaires ad interim at the conference to which he was called with Señor Casasús on the 14th instant, and bearing on the Mexican Government's order to Col. Don Celso Vega to repair to the seat of the Colorado River works for their protection, was forwarded by wire to Mexico.

The department of foreign relations informs the embassy that there undoubtedly was some lack of clearness in the information received by the Department of State, for, as orally stated by the chargé d'affaires ad interim, Col. Vega will not have to go out of Mexican territory to reach his destination, and therefore the Government of Mexico believes that, this point once established, Col. Vega or any other officer in command may draw arms, ammunition, and stores from Yuma without this being made the subject of a special and restrictive stipulation, inasmuch as the Mexican Government may freely make purchases of this kind anywhere in the United States.

The Government of this country has been and is now a good friend of Mexico, and all its measures have been prompted by the most noble sentiments. And for that reason the Government of Mexico believes that in this case there was some confusion in the data furnished to the Department, and that it was the cause of the restriction of which notice was given.

File No. 711.1216M/227A.

The Department of State to the Mexican Embassy.

[Aide Memoire.]

In connection with procuring the adequate protection of the works now being constructed along the Colorado River, a telegram was to-day sent to the American ambassador at Mexico City stating that it is reported to the Department of State that well-informed American citizens in California, including the American general in command at Calexico, believe that the wounding and complete defeat of Col. Vega, of the Mexican Army, and of his entire force leaves the threatened region wholly unprotected by Mexican troops, thus augmenting the critical nature of the situation and placing the Imperial Valley interests in imminent danger.

The American ambassador at Mexico City was by telegraph directed immediately to bring this to the attention of the President of Mexico, and to reiterate the suggestion of effective cooperation by the Government of the United States with the Mexican Government, if not with regular military forces, then by an ununiformed force acting as a police constabulary under the direction of the Secretary of the Interior of the United States.

The American ambassador was further instructed to telegraph immediately by what means the Government of Mexico expects the vast interests involved to be protected with the certainty necessary.

DEPARTMENT OF STATE,
Washington, February 17, 1911.

File No. 711.1216M/229.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, February 17, 1911.

At an interview with the president of Mexico and the minister of foreign affairs the following was agreed upon: The Mexican Government will immediately send 300 troops to protect our interests. These troops will proceed via Manzanillo. In view of the urgent necessity the Department of the Interior is authorized to employ as many ununiformed guards as may be necessary to afford adequate protection of the works. These guards are to be placed upon the rolls of the Colorado River Land & Irrigation Co. nominally as employees of the company.

The Mexican Government requests utmost discretion in sending these men across the boundary and that no publicity thereof be made in the American press. It is understood that no written notes are to be exchanged, a verbal agreement being considered advisable.

WILSON.

File No. 711.1216M/229.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 22, 1911.

In accordance with the agreement reported in your telegram of the 17th instant, the Secretary of the Interior has undertaken to protect the Colorado River works by ununiformed guards. Should the canal above the levee works be endangered by revolutionists similar protection is suggested for it. This canal is the sole source of water supply for the Imperial Valley. It is deemed desirable that the two Governments come to an agreement in anticipation of possible trouble there.

Impress upon the Mexican Government that this Government is convinced that unless an absolutely overwhelming force is sent into the disturbed territory the situation will be merely aggravated, and it is hoped that the Mexican Government will for the present leave the protection of these works to the arrangement as agreed upon.

KNOX.

File No. 711.1216M/237.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, February 25, 1911.

Replying to Department's telegram of the 22d instant Chargé Dearing reports that the Mexican Government agrees to all the proposals contained in that telegram.

File No. 711.1216M/243A.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 2, 1911.

Almost daily the Colorado River work suffers from the depredations of insurrectos who in irregular bands appropriate animals, commandeer supplies, and enter workmen's quarters. Menaced by threats and a display of firearms, a large percentage of the workmen have abandoned their work, and because of the lack of protection the contractors complain bitterly.

To recruit a civilian guard has been found quite impossible, and the Government of the United States finds it inexpedient to dispatch regular troops, dressed as civilians, to be placed on the pay rolls of the corporation, but to serve as guards. Hence to secure protection for the works in the manner agreed upon with the President of Mexico is impracticable. The Mexican Government is evidently unprepared to send to the vicinity of the works an overwhelming force, and if any less force were sent the insurrectos would merely be instigated to destroy the works.

The President feels that under these circumstances the President of Mexico will appreciate that the emergency has now arrived making indispensable to the sure protection of the works the sending of a body of American troops to guard the works; also that, sensible of its great responsibility and recognizing the two Governments' equal interest in absolutely preventing the vast material loss and catastrophe from any serious injury to the levee and the great loss attending interference, the Mexican Government will doubtless act with the utmost promptness. In thus making representations to the Government of Mexico you should suggest, in order to preclude any absurd distortion of the actual facts, that the Mexican Government should officially request this Government to protect, temporarily, with military forces the levee referred to, basing such request on the ground that the levee is being built in a desolate and remote territory where there is no general reason for maintaining a force sufficient for this purpose, nor adequate facilities for such a force, and that the only adequate means of approaching the levee is by crossing the territory of the United States.

KNOX.

File No. 812.00/870.

The Mexican Ambassador to the Secretary of State.

[Aide Memoire.[1] Extract—Translation.]

No. 986.]

[Relating mostly to other correspondence, but containing one paragraph pertinent here, as follows:]

The Mexican ambassador, while recognizing the friendly spirit actuating the American Government, expressed in last evening's interview the opinion that the constitution prohibits the passage of foreign troops into national territory without permission of the senate, which is not in session; and added that he believed such a suggestion would not be well received in Mexico. He reiterated his opinion, made to the Assistant Secretary of State last Sunday, relative to the favorable influence which might under present circumstances result from a categorical declaration of the American Government reproving the operations of the adventurers who are organizing expeditions against a friendly country, and instituting against them the most effective proceedings permitted by the laws of this country.

MEXICAN EMBASSY,
Washington, March 3, 1911.

File No. 711.1216M/246.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, March 4, 1911.

I was unable immediately upon receipt of Department's telegram of the 2d instant to see the minister for foreign affairs, but presented the entire matter to him on the morning of the 4th. He informed me that the vessels *El Democrata* and *General Guerrero*, with 4 machine guns and 500 men, were already on the way to the Colorado River works via Todos Santos [Ensenada], where they will be landed, and it is expected that they will reach the works within 10 days. During the time the troops are at the works one vessel will remain at Ensenada. I suggested that 10 days would be a serious delay considering the importance and extent of the works, and expressed doubt as to the ability of 500 men to control the situation. I also stated that it was my opinion that the emergency was sufficiently great to warrant President Diaz in taking the action suggested by the Department, notwithstanding the constitutional objections which the minister for foreign affairs again raised. With respect to these constitutional objections Mr. Creel stated that I might inform the Department that he was sure that if uniformed American soldiers were permitted to enter Mexican territory the entire country would rise in protest against President Diaz. The minister for foreign affairs has just in-

[1] Acknowledged Mar. 30, 1911 (File No. 711.1216M/245).

formed me that he had a consultation with President Diaz, and that the latter fully agrees with him that to permit American troops to enter Mexican territory would be construed by the Mexican people, as well as foreign nations, as an admission of weakness, and would greatly strengthen the revolution. According to Mr. Creel's advice there are no more than 150 rebels operating in that region and he thinks that 500 troops will be sufficient to cope with them. I reminded him that what was needed was an overwhelming force.

The minister for foreign affairs said that President Diaz had instructed him to state that he appreciates the attitude of President Taft in regard to this matter and is grateful for the suggestions offered. He can not, however, act without the sanction of the Mexican senate, and he is opposed, in view of the revolutionary situation and for other grave reasons, to the calling of an extra session of Congress at this time. The President suggests that considerable time could be saved if the 500 men now on the way were allowed to proceed via San Diego, Cal. I told the minister for foreign affairs that such an arrangement would be severely criticized as being a breach of neutrality, to which he replied that no accepted rule of international law would be violated because the revolutionists had not been recognized as belligerents. I then told him that I would transmit President Diaz suggestion to the Department, intimating to him, however, that I did not believe that unqualified approval would be given to any of the foregoing. The President and the minister for foreign affairs evidently regard this matter as of the utmost importance and are disinclined to act upon Department's suggestion.

DEARING.

File No. 711.1216M/255.

The Mexican Ambassador to the Secretary of State.

[Extract—Translation.]

No. 989.] MEXICAN EMBASSY,
Washington, March 4, 1911.

EXCELLENCY: I have the honor to inform your excellency that, by direction of the war office, sufficient troops have been dispatched to Todos Santos, Lower California, in two ships, for the effective protection of lives and interests in the northern part of the peninsula, being equipped with rapid-fire guns and the requisite war supplies.

I avail [etc.],

F. L. DE LA BARRA.

File No. 711.1216M/256.

[Translation.]

No. 1056.] MEXICAN EMBASSY,
Washington, March 6, 1911.

EXCELLENCY: Confirming my confidential note No. 989 of the 4th instant, I have the honor to add that the forces designed to protect the works of the Colorado River and in general all interests in the northern part of Lower California will arrive on the 10th at Ensenada de Todos Santos, where they will join the forces of Col. Vega.

To the end that these forces may arrive without a moment's loss at the place where the works on the Colorado River are being con-

structed, the Government of Mexico would be disposed to request from that of the United States the passage of said forces over the railroad, which they would take in San Diego, provided the entry of our soldiers upon the territory of this country would not subject them to conditions incompatible with the purpose that takes them to Lower California, which is that of attacking the adventurers, a majority of whom are fugitives from American justice and whose presence in Mexicali causes alarm to the Colorado company, since if the granting of said favor should be subject to any such conditions it would be preferable that the united troops of Col. Vega and of the expedition that started from Manzanillo should proceed over Mexican territory from Todos Santos to Mexicali.

I beg [etc.],

F. L. DE LA BARRA.

File No. 711.1216M/256.

The Acting Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, March 7, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's confidential note No. 1056 of the 6th instant, wherein, confirming your confidential note No. 989 of the 4th instant, you state that Mexican forces designed to protect the works of the Colorado River and in general all interests in Lower California, will arrive on the 10th instant at Ensenada de Todos Santos, where they will join the forces of Col. Vega. In taking note of the dispatch of these forces I have the honor again to refer to the conviction of this Government that anything short of an overwhelming force would be in danger of doing harm rather than good in the matter of assuring the absolute security of the Colorado River works and so forth, which is so urgently required.

Your excellency adds that in order that these forces may arrive without a moment's delay at the place where the works of the Colorado River are being constructed the Government of Mexico would be disposed to request from the Government of the United States the passage of these forces by railroad which they would take at San Diego, Cal., provided the entry of the Mexican soldiers upon American territory would not subject them to conditions incompatible with the general purpose that takes them to Lower California, but that if the granting of the permission should be subject to any such conditions it would be preferable that the Mexican troops, consisting of those under command of Col. Vega and the expedition that started from Manzanillo, should proceed over Mexican territory from Todos Santos to Mexicali.

In reply, I am compelled to inform your excellency that this Government finds itself bound to adhere to the policy indicated in the aide mémoire handed the chargé d'affaires and his excellency, Mr. Casasús, on the 14th ultimo, and that it is believed that it will be preferable to have the Mexican troops reach their destination over Mexican territory, since your excellency will readily understand that for this Government to permit the passage of Mexican troops over

American territory for the avowed purpose of engaging in general hostilities would hardly be compatible with the circumstances and principles involved.

Accept [etc.],

HUNTINGTON WILSON.

File No. 812.032/3.

Message of President Diaz to the Mexican Congress of April 1, 1911.

[Extract.]

The Government has given special attention and granted certain privileges to work on the Colorado River dikes, which is being done in Baja California territory by an authorized Mexican company.

File No. 711.1216M/288.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1435.] MEXICAN EMBASSY,
Washington, May 24, 1911.

EXCELLENCY: The department of foreign relations writes me that in case the defensive works of the Colorado River in Lower California are completed, it would like to transfer the forces now charged with the special protection of those works to other places and assign them to other duties in the public service.

I hope that your excellency will be pleased to send me a reply as soon as possible so as to transmit it by telegraph to my Government.

I have [etc.],

M. DE ZAMACONA.

File No. 711.1216M/287.

The Secretary of State to the Mexican Ambassador.

No. 41.] DEPARTMENT OF STATE,
Washington, June 1, 1911.

EXCELLENCY: I have the honor to inclose herewith a copy of a letter from the Secretary of the Interior, transmitting correspondence between Col. Mayol, who commanded the Mexican troops on guard duty in the vicinity of the protective works along the Colorado River, and Mr. J. A. Ockerson, the engineer in charge of the works.

This Government highly appreciates your Government's courtesy in detailing these troops for the duty mentioned, as well as the capable and successful manner in which Col. Mayol and his command accomplished their task.

Accept [etc.],

P. C. KNOX.

[Inclosure.]

The Secretary of the Interior to the Secretary of State.

DEPARTMENT OF THE INTERIOR,
Washington, May 23, 1911.

SIR: I have the honor to inclose herewith copy of communication from Mr. J. A. Ockerson, in charge of the protective works along the Colorado River, to Col. Mayol in command of the Mexican troops assigned to guard duty in the vicinity of said works. Mr. Ockerson's action in relieving the Mexican troops from further patrol duty was predicated upon the practical completion of the work assigned to him and had the approval of this department.

I venture to suggest that the substance of the inclosed correspondence be communicated to the Mexican ambassador with appropriate expression of appreciation of the courteous action on the part of the Mexican Government in detailing its troops for the performance of the duty in question.

I have [etc.],

WALTER L. FISHER.

[Subinclosure.]

Mr. J. A. Ockerson to the commander of Mexican troops.

COLORADO RIVER LAND CO.,
YUMA, ARIZ., *May 10, 1911.*

MY DEAR COLONEL: I have the honor to inform you that my work at the Abejas River, for the present at least, is about concluded, and it is expected that the entire force of workmen will be disbanded by the end of the present week.

It seems proper to state therefore that further service of your troops as guards for this particular work may be terminated on or before May 14.

Cars will be placed at your disposal for the transportation of your troops and equipment to the vicinity of Algodones.

It is a great pleasure to make acknowledgment and to express my deep appreciation of the courtesy of your Government in detailing troops for this particular service, and I congratulate you on the very successful manner in which you have accomplished the extremely difficult task assigned to you.

Trusting that the near future may find you and your command in the midst of more congenial surroundings, and that the gloom which now seems to hover over your country may very soon be dispelled by the bright sunshine of prosperity and happiness for all her people, I beg to remain with expressions of highest regards.

Yours, very sincerely,

J. A. OCKERSON, *Engineer in Charge.*

CONVENTION AND SUPPLEMENTAL PROTOCOL BETWEEN THE UNITED STATES AND MEXICO; AWARD AND DISSENTING OPINIONS—CHAMIZAL TRACT ARBITRATION.

Convention.

Signed at Washington, June 24, 1910; ratification advised by the Senate December 12, 1910; ratified by the President, January 23, 1911; ratified by Mexico, December 27, 1910; ratifications exchanged at Washington, January 24, 1911; proclaimed, January 25, 1911.

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 for the arbitration of the differences which have arisen between the two Governments as to the interna-

tional title to the Chamizal tract, was concluded and signed by their respective plenipotentiaries at Washington on the twenty-fourth day of June, one thousand nine hundred and ten, the original of which convention, being in the English and Spanish languages, is word for word as follows:

CONVENTION FOR THE ARBITRATION OF THE CHAMIZAL CASE.

The United States of America and the United States of Mexico, desiring to terminate, in accordance with the various treaties and conventions now existing between the two countries, and in accordance with the principles of international law, the differences which have arisen between the two Governments as to the international title to the Chamizal tract, upon which the members of the International Boundary Commission have failed to agree, and having determined to refer these differences to the said commission, established by the convention of 1889, which for this case only shall be enlarged as hereinafter provided, have resolved to conclude a convention for that purpose, and have appointed as their respective plenipotentiaries:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States of America; and

The President of the United States of Mexico, Don Francisco León de la Barra, ambassador extraordinary and plenipotentiary of the United States of Mexico at Washington;

Who, after having exhibited their respective full powers, and having found the same to be in good and due form, have agreed upon the following articles:

ARTICLE I.

The Chamizal tract in dispute is located at El Paso, Texas, and Ciudad Juarez, Chihuahua, and is bounded westerly and southerly by the middle of the present channel of the Rio Grande, otherwise called Rio Bravo del Norte, easterly by the middle of the abandoned channel of 1901, and northerly by the middle of the channel of the river as surveyed by Emory and Salazar in 1852, and is substantially as shown on a map on a scale of 1–5,000 signed by General Anson Mills, commissioner on the part of the United States, and Señor Don F. Javier Osorno, commissioner on the part of Mexico, which accompanies the report of the International Boundary Commission, in Case No. 13, entitled "Alleged Obstruction in the Mexican End of the El Paso Street Railway Bridge and Backwaters Caused by the Great Bend in the River Below," and on file in the archives of the two Governments.

ARTICLE II.

The difference as to the international title of the Chamizal tract shall be again referred to the International Boundary Commission, which shall be enlarged by the addition, for the purposes of the consideration and decision of the aforesaid difference only, of a third commissioner, who shall preside over the deliberations of the commission. This commissioner shall be a Canadian jurist and shall be

selected by the two Governments by common accord, or, failing such agreement, by the Government of Canada, which shall be requested to designate him. No decision of the Commission shall be perfectly valid unless the commission shall have been fully constituted by the three members who compose it.

ARTICLE III.

The commission shall decide solely and exclusively as to whether the international title to the Chamizal tract is in the United States of America or Mexico. The decision of the commission, whether rendered unanimously or by majority vote of the commissioners, shall be final and conclusive upon both Governments, and without appeal. The decision shall be in writing and shall state the reasons upon which it is based. It shall be rendered within thirty days after the close of the hearings.

ARTICLE IV.

Each Government shall be entitled to be represented before the commission by an agent and such counsel as it may deem necessary to designate; the agent and counsel shall be entitled to make oral argument and to examine and cross-examine witnesses and, provided that the commission so decides, to introduce further documentary evidence.

ARTICLE V.

On or before December 1, 1910, each Government shall present to the agent of the other party two or more printed copies of its case, together with the documentary evidence upon which it relies. It shall be sufficient for this purpose if each Government delivers the copies and documents aforesaid at the Mexican Embassy at Washington or at the American Embassy at the City of Mexico, as the case may be, for transmission. As soon thereafter as possible, and within ten days, each party shall deliver two printed copies of its case and accompanying documentary evidence to each member of the commission. Delivery to the American and Mexican commissioners may be made at their offices in El Paso, Texas; the copies intended for the Canadian commissioner may be delivered at the British Embassy at Washington or at the British legation at the City of Mexico.

On or before February 1, 1911, each Government may present to the agent of the other a countercase, with documentary evidence, in answer to the case and documentary evidence of the other party. The countercase shall be delivered in the manner provided in the foregoing paragraph.

The commission shall hold its first session in the city of El Paso, State of Texas, where the offices of the International Boundary Commission are situated, on March 1, 1911, and shall proceed to the trial of the case with all convenient speed, sitting either at El Paso, Texas, or Ciudad Juarez, Chihuahua, as convenience may require. The commission shall act in accordance with the procedure established in the Boundary Convention of 1889. It shall, however, be empowered to adopt such rules and regulations as it may deem convenient in the course of the case.

At the first meeting of the three commissioners each party shall deliver to each of the commissioners and to the agent of the other party, in duplicate, with such additional copies as may be required, a printed argument showing the points relied upon in the case and countercase, and referring to the documentary evidence upon which it is based. Each party shall have the right to file such supplemental printed brief as it may deem requisite. Such briefs shall be filed within ten days after the close of the hearings, unless further time be granted by the commission.

ARTICLE VI.

Each Government shall pay the expenses of the presentation and conduct of its case before the commission; all other expenses which by their nature are a charge on both Governments, including the honorarium for the Canadian commissioner, shall be borne by the two Governments in equal moieties.

ARTICLE VII.

In case of the temporary or permanent unavoidable absence of any one of the commissioners, his place will be filled by the Government concerned, except in the case of the Canadian jurist. The latter under any like circumstances shall be replaced in accordance with the provisions of this convention.

ARTICLE VIII.

If the arbitral award provided for by this convention shall be favorable to Mexico, it shall be executed within the term of two years, which can not be extended, and which shall be counted from the date on which the award is rendered. During that time the *status quo* shall be maintained in the Chamizal tract on the terms agreed upon by both Governments.

ARTICLE IX.

By this convention the contracting parties declare to be null and void all previous propositions that have reciprocally been made for the diplomatic settlement of the Chamizal case; but each party shall be entitled to put in evidence by way of information such of this official correspondence as it deems advisable.

ARTICLE X.

The present convention shall be ratified in accordance with the constitutional forms of the contracting parties and shall take effect from the date of the exchange of its ratifications.

The ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles, both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this 24th day of June, one thousand nine hundred and ten.

PHILANDER C. KNOX. [SEAL.]
F. L. DE LA BARRA. [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 January, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, 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 testimony 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 twenty-fifth day of January in the year of our Lord one thousand nine hundred and eleven, and of the Independence of the United States of America the one hundred and thirty-fifth.

[SEAL] WM. H. TAFT.

By the President:

P. C. KNOX,
Secretary of State.

Supplementary protocol.

Signed at Washington, December 5, 1910; ratification advised by the Senate, December 12, 1910; ratified by the President, January 23, 1911; ratified by Mexico, December 27, 1910; ratifications exchanged at Washington, January 24, 1911; proclaimed, January 25, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a supplementary protocol between the United States of America and the United States of Mexico changing the dates fixed by Article V of the convention of June 24, 1910, was concluded and signed by their respective plenipotentiaries at Washington on the fifth day of December, one thousand nine hundred and ten, the original of which supplementary protocol, being in the English and Spanish languages, is word for word as follows:

The plenipotentiaries who negotiated and signed the convention of June 24, 1910, for the arbitration of the Chamizal case, being thereunto duly empowered by their respective Governments, have agreed upon the following supplementary protocol:

Whereas it has become necessary, owing to the lapse of time, that the dates fixed by Article V of the before-mentioned convention be changed, it is hereby agreed as follows:

The date for the presentation of the respective cases and documentary evidence is fixed for February 15, 1911;

The date for the presentation of the respective countercases and documentary evidence is fixed for April 15, 1911;

The date for the first session of the commission is fixed for May 15, 1911.

All other provisions of the convention of June 24, 1910, remain unchanged.

This supplementary protocol shall be ratified in accordance with the constitutional forms of the contracting parties and shall take effect from the date of the exchange of its ratifications.

The ratifications of the convention and the supplementary protocol shall be exchanged at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above supplementary protocol, both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this fifth day of December, one thousand nine hundred and ten.

PHILANDER C. KNOX. [SEAL.]
F. L. DE LA BARRA. [SEAL.]

And whereas the said supplementary protocol 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 January, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said supplementary protocol to be made public, to the end that the same and every clause thereof 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 to be affixed.

Done at the city of Washington this twenty-fifth day of January in the year of our Lord one thousand nine hundred and [SEAL.] eleven, and of the Independence of the United States of America the one hundred and thirty-fifth.

WM. H. TAFT.

By the President:
P. C. KNOX,
Secretary of State.

File No. 711.1215/204.

The Acting Secretary of State to the Ambassador of Great Britain.

DEPARTMENT OF STATE,
Washington, December 24, 1910.

EXCELLENCY: Referring to this Department's note of December 5 last, relating to the convention of June 24, 1910, between the United States and Mexico for the arbitration of their difference with respect to the international title of the so-called Chamizal tract, I have the honor to inclose herewith two copies of the convention. It will be observed that article 2 reads in part as follows:

The difference as to the international title of the Chamizal tract shall be again referred to the International Boundary Commission, which shall be enlarged by the addition, for the purpose of the consideration and decision of the aforesaid difference only, of a third commissioner, who shall preside over the deliberations of the commission. This commissioner shall be a Canadian jurist and shall be selected by the two Governments by common accord, or, failing such agreement, by the Government of Canada, which shall be requested to designate him. No decision of the commission shall be perfectly valid unless the commission shall have been fully constituted by the three members who compose it.

It gives me pleasure to inform you that in accordance with the provisions of this article, the United States and Mexico have agreed to request the Hon. Eugene LaFleur, of Montreal, Canada, to act as the third commissioner to preside over the deliberations of the commission during consideration and decision of the Chamizal case, in accordance with the terms of the convention. The Department accordingly requests the good offices of the embassy in laying this matter before Mr. LaFleur and ascertaining whether he is disposed to act as third commissioner under the terms of the convention. It will be observed from the supplementary protocol of December 5, two copies of which are inclosed, that the dates specified by article 5 of the convention of June 24, 1910, have been changed so that the date for the presentation of the respective cases and documentary evidence is fixed for February 15, 1911; the date for the presentation of the countercases and evidence is fixed for April 15, 1911; and the date for the first session of the commission is fixed for May 15, 1911. By article 3 of the convention it is provided that the decision shall be rendered within 30 days after the close of the hearings.

The Governments of the United States and of Mexico will, of course, be glad to give further information with regard to the matter, which may be desired by Mr. LaFleur before he gives his decision as to whether or not he is disposed to accept the designation which the two Governments have united in tendering. An identic note in this sense is being addressed to you at the same time by the Mexican Embassy in this city.

I have [etc.],

HUNTINGTON WILSON.

File No. 711.1215/225.

The British Ambassador to the Secretary of State.

No. 15.] BRITISH EMBASSY,
Washington, January 23, 1911.

SIR: On the receipt of your note of the 24th ultimo I requested the Governor General of Canada to ascertain whether Mr. LaFleur would be disposed to act as presiding commissioner in the United States-Mexican Boundary Arbitration respecting the international title to the Chamizal tract.

Lord Grey now informs me that this invitation was duly conveyed to Mr. LeFleur, who replies that he would consider it an honor to act in the capacity indicated, and requests that the Government of the United States and Mexico may be notified accordingly.

I have [etc.],

JAMES BRYCE.

File No. 711.1215/336.

The Secretary of the Chamizal Agency to the Secretary of State.

EL PASO, TEX., *June 15, 1911.*

SIR: As instructed by the agent of the United States in the Chamizal arbitration, I have the honor to transmit herewith the proceed-

ings of the fourteenth session of the International Boundary Commission, for the trial of the Chamizal case, held on June 10 and 15, 1911, which contain the decision and award in the case, as well as the dissenting opinions of the American and Mexican commissioners, and the protest made by the agent of the United States upon his own motion, subject to the consideration and action of the Department.

I also inclose a copy of the award and the dissenting opinion of the Mexican commissioner in Spanish.

I have [etc.],

H. J. WAGNER.

[Inclosure.]

Minutes of meeting of the joint commission, June 10, 1911.

EL PASO, TEX., *June 10, 1911.*

The joint commission having been in session every day since the close of argument on June 2, 1911, discussing evidence and argument presented by the agents and counsel of the two Governments, proceeded to ballot for the purpose of arriving at a decision upon the following points, to wit:

I. Was the boundary line established by the treaties of 1848 and 1853 along the Rio Grande a fixed and invariable line?

Upon this question the Mexican commissioner voted yes; the United States commissioner voted no; the presiding commissioner voted no.

II. Has the United States of America acquired title to the Chamizal tract by prescription?

Upon this question the Mexican commissioner voted no; the United States commissioner voted no; the presiding commissioner voted no.

III. Does the treaty of 1884 apply to all changes in the river subsequent to the survey of 1852?

Upon this question the Mexican commissioner voted no; the United States commissioner voted yes; the presiding commissioner voted yes.

IV. Was the whole of the Chamizal tract, as defined in the convention of 1910, formed by slow and gradual erosion and deposit of alluvium within the meaning of Article I of the convention of 1884?

Upon this question the Mexican commissioner voted no; the United States commissioner voted yes; the presiding commissioner voted no.

V. Was the formation of the Chamizal tract up to 1864 due to slow and gradual erosion and deposit of alluvium within the meaning of Article I of the treaty of 1884?

Upon this question the Mexican commissioner voted yes; the United States commissioner declined to vote for the following reasons:

1. Article 1 of the treaty of June 24, 1910, specifically bounds the Chamizal tract with technical accuracy, while article 3 provides that "the commission shall decide solely and exclusively as to whether the international title to the Chamizal tract is in the United States of America or Mexico."

The United States commissioner does not believe that the commission, in view of these provisions, is empowered to divide the Chamizal tract between the two countries. This position was specifically taken by counsel for the United States in argument and not denied by counsel on behalf of Mexico. The commission in dividing the Chamizal tract is taking action which was neither requested nor contemplated by either party.

2. The majority of the commission in segregating the Chamizal tract is about to apply to some portion of the tract a standard not permitted by the treaties in force between the two countries.

The convention of 1884 (see articles 1 and 2) and the convention of 1889, establishing the present International Boundary Commission (see, particularly, article 4), recognize only two classes of changes in the river channel through natural causes, i. e., (*a*) through the slow and gradual erosion and deposit of alluvium (article 1, 1884) or erosion (article 4, 1889); (*b*) by the abandonment of an existing river bed and the opening of a new one (article 1, 1884), or avulsion (article 4, 1889).

The convention of June 24, 1910, whereby the Chamizal case is "again referred to the International Boundary Commission, which shall be enlarged by the addition, for the purposes of the consideration and decision of the aforesaid difference only" (article 2), i. e., "said commission established by the convention of 1889" (preamble) in no wise modifies the provisions of the conventions of 1884 and 1889, which confines the commission to the consideration of the two classes of changes aforesaid, i. e., erosion and avulsion.

The presiding commissioner voted yes.

VI. Was the whole erosion which occurred in 1864 and after that date slow and gradual within the meaning of the treaty of 1884?

Upon this question the Mexican commissioner voted that it was not slow and gradual from 1864 to 1868. He has no data to cover each of the succeeding years.

The United States commissioner declined to vote for the same reasons stated with respect to the period from 1852 to 1864.

He furthermore declined to vote because the location of the river in 1864 is wholly obliterated and its position can never be reestablished in any one of the points of its former location, and, therefore, even if the commission were empowered to render a decision segregating that portion of the tract formed after 1864, provided the channel of 1864 could be located, a decision to this effect under the present circumstances, when the channel can by no possibility be relocated, is void because it is indeterminate, indefinite, and impossible of accomplishment.

He furthermore pointed out that even if the commission were empowered to segregate the Chamizal tract and even if it were possible to relocate the river channel of 1864 and even if the commission were empowered to ingraft upon the treaty a new class of changes, i. e., some form of erosion which was not slow and gradual within the meaning of the treaty, nevertheless the evidence conclusively shows that this hypothetical violent and rapid erosion could in no event have taken place except at certain points where the river impinged upon the banks with peculiar force, and not along the whole 3 miles where the tract bounds upon the river. Even if it be conceded, as alleged, that land at certain points in Mexico was destroyed by rapid and violent erosion, and that the boundary commission during the last 17 years has been in error in construing such erosion as being within the terms of Article I of the convention of 1884, nevertheless the undisputed evidence in the record shows that the entire tract on the north bank of the river was formed by slow and gradual deposit of alluvium. It was, in his judgment, in any event, the duty of Mexico to establish by the preponderance of evidence the identity of any portion of land within the Chamizal tract alleged to have been formed as a result of violent and rapid erosion.

The presiding commissioner voted that the erosion which was caused by the flood of 1864 was not slow and gradual within the meaning of the convention of 1884, nor was the erosion during the succeeding years up to and including 1868 of that character. There are no data, and it is immaterial to decide whether the erosion subsequent to that date was slow and gradual or not, inasmuch as the river had ceased to be the international boundary.

The United States commissioner furthermore stated that he desired to file a dissenting opinion in which he would discuss the merits of the questions before the commission on the points as to which he was compelled to dissent, as well as to elaborate the grounds which induced him to believe that the commission by its decision has departed from the terms of the submission.

The presiding commissioner was requested to prepare the award in accordance with the above votes and the American and Mexican commissioners to submit their opinions on the points on which they dissent.

The commission then adjourned until further notice.

Award by the International Boundary Commission.

IN THE MATTER OF THE INTERNATIONAL TITLE TO THE CHAMIZAL TRACT:

PREAMBLE.

Whereas a convention between the United States of America and the United States of Mexico for the arbitration of the differences which have arisen between the two Governments as to the international title to the Chamizal tract

was concluded and signed by their respective plenipotentiaries at Washington on the twenty-fourth day of June, 1910, which is as follows:[1]

And whereas the said convention was duly ratified on both parts and the ratifications of the two Governments were exchanged at the city of Washington on the twenty-fourth day of January, 1911.

And whereas on the fifth day of December, 1910, the plenipotentiaries who negotiated and signed the said convention of June 24, 1910, being thereunto duly empowered by their respective Governments, agreed upon a supplementary protocol, which is as follows:[1]

And whereas the parties to the said convention of 24th of June, 1910, have by common accord, in conformity with Article II thereof, enlarged the said International Boundary Commission by the addition for the purposes of the consideration and decision of the aforesaid difference of a third commissioner, viz:

Eugene Lafleur, one of His Britannic Majesty's counsel, doctor of civil law and former professor of international law at McGill University, who, together with

Anson Mills, brigadier general of the United States Army (retired), member of the American Geographical Society, American Commissioner of the International Boundary Commission, and

Fernando Beltrán y Puga, civil engineer, Mexican commissioner of the International Boundary Commission, member of the Geographical Society of Mexico and of the American Geographical Society, member of the Society of Civil Engineers and Architects of Mexico,

Have been constituted as a commission for the decision as to whether the international title to the Chamizal tract is in the United States of America or in the United States of Mexico.

And whereas the agents of the parties to the said convention have duly, and in accordance with the terms of the convention, communicated to this commission their cases, countercases, printed arguments, and other documents.

And whereas the agents and counsel for the parties have fully presented to this commission their oral arguments during the sittings held at the city of El Paso between the first assembling of the commission on the 15th May, 1911, to the close of the hearing on the 2d June, 1911.

Now, therefore, this commission, having carefully considered the said convention, cases, countercases, printed and oral arguments, and the documents presented by either side, after due deliberation, makes the following decision and award:

The Chamizal tract consists of about six hundred acres, and lies between the old bed of the Rio Grande, as it was surveyed in 1852, and the present bed of the river, as more particularly described in article 1 of the convention of 1910. It is the result of changes which have taken place through the action of the water upon the banks of the river causing the river to move southward into Mexican territory.

With the progressive movement of the river to the south, the American city of El Paso has been extending on the accretions formed by the action of the river on its north bank, while the Mexican city of Juarez to the south has suffered a corresponding loss of territory.

By the treaties of 1848 and 1853 the Rio Grande, from a point a little higher than the present city of El Paso, to its mouth in the Gulf of Mexico was constituted the boundary line between the United States and Mexico.

The contention on behalf of the United States of Mexico is that this dividing line was fixed under those treaties in a permanent and invariable manner, and consequently that the changes which have taken place in the river have not affected the boundary line, which was established and marked in 1852.

On behalf of the United States of America it is contended that according to the true intent and meaning of the treaties of 1848 and 1853, if the channel of the river changes by gradual accretion, the boundary follows the channel, and that it is only in case of a sudden change of bed that the river ceases to be the boundary, which then remains in the abandoned bed of the river.

It is further contended on behalf of the United States of America that by the terms of a subsequent boundary convention in 1884 rules of interpretation were adopted which became applicable to all changes in the Rio Grande which have occurred since the river became the international boundary, and that the changes

[1] Printed supra.

which determined the formation of the Chamizal tract are changes resulting from slow and gradual erosion and deposit of alluvion within the meaning of that convention and consequently changes which left the channel of the river as the international boundary line.

The Mexican Government, on the other hand, contends that the Chamizal tract having been formed before the coming in force of the convention of 1884, that convention was not retroactive and could not affect the title to the tract, and further contends that, even assuming the case to be governed by the convention of 1884, the changes in the channel have not been the result of slow and gradual erosion and deposit of alluvion.

Finally the United States of America have set up a claim to the Chamizal tract by prescription, alleged to result from the undisturbed, uninterrupted, and unchallenged possession of the terrritory since the treaty of 1848.

In 1889 the Governments of the United States and of Mexico, by a convention, created the International Boundary Commission for the purpose of carrying out the principles contained in the convention of 1884 and to avoid the difficulties occasioned by the changes which take place in the bed of the Rio Grande where it serves as the boundary between the two Republics, and for other purposes enumerated in Article I of the convention of 1889.

At a session of the boundary commissioners held on the 28th September, 1894, the Mexican commissioner presented the papers in a case known as "El Chamizal No. 4." These included a complaint made by Pedro Ignacio Garcia, who alleged, in substance, that he had acquired certain property formerly lying on the south side of the Rio Grande, known as El Chamizal, which, in consequence of the abrupt and sudden change of current of the Rio Grande, was now on the north side of the river and within the limits of El Paso, Texas. This claim was examined by the International Boundary Commissioners, who heard witnesses upon the facts, and who, after consideration, were unable to come to any agreement, and so reported to their respective Governments.

As a result of this disagreement the convention of 24th June, 1910, was signed, and the decision of the question was submitted to the present commission.

FIXED LINE THEORY.

Article V of the treaty of Guadalupe Hidalgo of 1848 provides for a boundary between the United States and Mexico in the following terms:

> The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence, up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence, westwardly, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward, along the western line of New Mexico until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence, across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.
>
> The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled *"Map of the United Mexican States, as organized and defined by various acts of the Congress of said Republic, and constructed according to the best authorities. Revised edition. Published at New York in 1847 by J. Disturnell;"* of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line, drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782 by Don Juan Pantoja, second sailing master of the Spanish fleet, and published at Madrid in the year 1802 in the atlas to the voyage of the schooners *Sutil* and *Mexicana*, of which plan a copy is hereunto added, signed and sealed by the respective plenipotentiaries.

In order to designate the boundary line with due precision upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both Republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations, and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

The boundary line established by this article shall be religiously respected by each of the two Republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution.

The fluvial portion of the boundary called for by the above treaty, in so far as the Rio Grande is concerned, extending from its mouth to the point where it strikes the southern boundary of New Mexico, appears to have been fixed by the surveys of the International Boundary Commission in 1852.

In 1853, in consequence of a dispute as to the land boundary and the acquisition of a portion of territory now forming part of New Mexico and Arizona, known as the "Gadsden Purchase," the boundary treaty of 1853 was signed, the first article of which deals with the boundary as follows:

The Mexican Republic agrees to designate the following as her true limits with the United States for the future: Retaining the same dividing line between the two Californias as already defined and established, according to the fifth article of the treaty of Guadalupe Hidalgo, the limits between the two Republics shall be as follows: Beginning in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, as provided in the fifth article of the treaty of Guadalupe Hidalgo; thence, as defined in the said article, up the middle of that river to the point where the parallel of 31° 47′ north latitude crosses the same; thence due west 100 miles; thence south to the parallel of 31° 20′, north latitude; thence along the said parallel of 31° 20′ to the 111th meridian of longitude west of Greenwich; thence in a straight line to a point on the Colorado River 20 English miles below the junction of the Gila and Colorado Rivers; thence up the middle of the said river Colorado until it intersects the present line between the United States and Mexico.

For the performance of this portion of the treaty, each of the two Governments shall nominate one commissioner, to the end that, by common consent, the two thus nominated, having met in the city of Paso del Norte, three months after the exchange of the ratifications of this treaty, may proceed to survey and mark out upon the land the dividing line stipulated by this article, where it shall not have already been surveyed and established by the mixed commission, according to the treaty of Guadalupe, keeping a journal and making proper plans of their operations. For this purpose, if they should judge it necessary, the contracting parties shall be at liberty each to unite to its respective commissioner, scientific or other assistants, such as astronomers and surveyors, whose concurrence shall not be considered necessary for the settlement and ratification of a true line of division between the two republics; that line shall be alone established upon which the commissioners may fix, their consent in this particular being considered decisive and an integral part of this treaty, without necessity of ulterior ratification or approval, and without room for interpretation of any kind by either of the parties contracting.

The dividing line thus established shall, in all time, be faithfully respected by the two Governments, without any variation therein, unless of the express and free consent of the two, given in conformity to the principles of the law of nations, and in accordance with the constitution of each country, respectively.

In consequence, the stipulation in the fifth article of the treaty of Guadalupe upon the boundary line therein described is no longer of any force, wherein it may conflict with that here established, the said line being considered annulled and abolished wherever it may not coincide with the present, and in the same manner remaining in full force where in accordance with the same.

The treaty of Guadalupe Hidalgo, signed on the 2d February, 1848, provides that the boundary line between the two Republics from the Gulf of Mexico

shall be the middle of the Rio Grande, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico. It is conceded on both sides that if this provision stood alone it would undoubtedly constitute a natural, or arcifinious, boundary between the two nations and that according to well-known principles of international law this fluvial boundary would continue, notwithstanding modifications of the course of the river caused by gradual accretion on the one bank or degradation on the other bank; whereas if the river deserted its original bed and forced for itself a new channel in another direction the boundary would remain in the middle of the deserted river bed. It is contended, however, on behalf of Mexico, that the provisions in the treaty providing for a designation of the boundary line with due precision, upon authoritative maps, and for establishing upon the grounds landmarks showing the limits of both Republics, and the direction to commissioners and surveyors to run and mark the boundary in its full course to the mouth of the Rio Grande, coupled with the final stipulation that the boundary line thus established should be religiously respected by the two Republics, and no change should ever be made therein, except by the express and free consent of both nations, takes this case out of the ordinary rules of international law, and by a conventional agreement converts a natural, or arcifinious, boundary into an artificial and invariable one. In support of this contention copious references have been made to the civil law distinguishing between lands whose limits were established by fixed measurements (*agri limitati*) and arcifinious lands, which were not so limited (*agri arcifinii*). These two classes of lands were sometimes contrasted by saying that arcifinious lands were those which had natural boundaries, such as mountains and rivers, while limited estates were those which had fixed measurements. As a consequence of this distinction the Roman law denied the existence of the right of alluvion in favor of the limited estates which it was the custom to distribute among the Roman generals, and subsequently to the legionaries, out of conquered territory. This restriction of the ordinary rights appurtenant to riparian ownership is, however considered by the best authorities to have been an exceptional provision applicable only to the case above mentioned, and one of the principal authorities relied on by the Mexican counsel (A. Plocquo, *Legislation des caux et de la navigation*, vol. 2, p. 66) clearly establishes that the mere fact that a riparian proprietor holds under a title which gives him a specified number of acres of land does not prevent him from profiting by alluvion. The difficulty in this case does not arise from the fact that the territories in question are established by any measurement, but because the boundary is ordered to be run and marked along the fluvial portion as well as on the land, and on account of the further stipulation that no change shall ever be made therein. Do these provisions and expression, in so far as they refer to the fluvial portion of the boundary, convert it into an artificial boundary which will persist notwithstanding all changes in the course of the river? In one sense it may be said that the adoption of a fixed and invariable line, so far as the river is concerned, would not be a perpetual retaining of the river boundary provided for by the treaty, and would be at variance with the agreement of the parties that the boundary should forever run in the middle of the river. The direction as to marking the course of the river as it existed at the time of the treaty of 1848 is not inconsistent with a fluvial line varying only in accordance with the general rules of international law, by erosion on one bank and alluvial deposits on the other bank, for this marking of the boundary may serve the purpose of preserving a record of the old river bed to serve as a boundary in cases in which it cuts a new channel.

Numerous treaties containing provisions as to river boundaries have been referred to by the two parties, showing that in some cases conventional arrangements are made that the river *simpliciter* shall be the boundary, or that the boundary shall run along the middle of the river, or along the *thalweg* or center or thread of the channel, while a small number of treaties contain elaborate dispositions for a fixed line boundary, notwithstanding the alterations which may take place in the river, with provision, however, for periodical readjustments in certain specified cases. The difficulty with these instances is that no cases appear to have arisen upon the treaties in question and their provisions throw little, if any, light upon the present controversy. In one case only among those cited there appears to have been a decision by the Court of Cassation in France (Dalloz, 1858, Part I, p. 401) holding that when a river separates two departments or two districts, the boundary is fixed in an irrevocable manner along the

middle of the bed of the river as it existed at the time of the establishment of the boundary and that it is not subject to any subsequent variation, notwithstanding the changes in the river. Whatever authority this decision may have in the delimitation of departmental boundaries in France, it does not seem to be in accordance with recognized principles of international law, if, as appears from the report, it holds that the mere designation of a river as a boundary establishes a fixed and invariable line.

The above observations as to the treaty of 1848 would seem to apply to the Gadsden treaty of 1853, taken by itself, for it provides, in similar language, that the boundary shall follow the middle of the Rio Grande, that the boundary line shall be established and marked, and that the dividing line shall in all time be faithfully respected by the two Governments without any variation therein.

While, however, the treaty of 1848 standing alone, or the treaty of 1853, standing alone, might seem to be more consistent with the idea of a fixed boundary than one which would vary by reason of alluvial processes, the language of the treaty of 1853, taken in conjunction with the existing circumstances, renders it difficult to accept the idea of a fixed and invariable boundary. During the five years which elapsed between the two treaties, notable variations of the course of the Rio Grande took place, to such an extent that surveys made in the early part of 1853, at intervals of six months, revealed discrepancies which are accounted for only by reason of the changes which the river had undergone in the meantime. Notwithstanding the existence of such changes the treaty of 1853 reiterates the provision that the boundary line runs up the middle of the river, which could not have been an accurate statement upon the fixed line theory.

Some stress has been laid upon the observations contained in the records of the boundary commissioners that the line they were fixing would be thenceforth invariable, but apart from the inconclusive character of this conversation, it seems clear that in making any remarks of this nature, the boundary commissioners were exceeding their mandate, and that their views as to the proper construction of the treaties under which they were working could not in any way bind their respective Governments.

In November, 1856, the draft for the proposed report of the boundary commissioners for determining the boundary between Mexico and the United States under the treaty of 1853 was submitted by the Secretary of the Interior of the United States to the Hon. Caleb Cushing for his opinion as to whether the boundary line under that treaty shifted with changes taking place in the bed of the river, or whether the line remained constant where the main course of the river ran as represented by the maps accompanying the report of the commissioners. The opinion of Mr. Cushing is a valuable contribution to the subject by an authority on international law. After consideration of the provisions of the treaty, and an examination of a great number of authorities upon the subject, Mr. Cushing reported that the Rio Grande retained its function of an international boundary, notwithstanding changes brought about by accretion to one bank and the degradation of the other bank, but that, on the other hand, if the river deserted its original bed and forced for itself a new channel in another direction, then the nation through whose territory the river thus broke its way did not lose the land so separated; the international boundary in that case remaining in the middle of the deserted river bed.

This opinion was transmitted to the Mexican legation at Washington and acknowledged by Señor Romero, then Mexican ambassador at Washington, who, without in any way committing his Government, stated his own personal acquiescence in the principles enunciated as being equitable and founded upon the teachings of the most accredited expositors of international law. He further stated that he was transmitting a copy of the opinion to his Government. There does not appear to have been any expression of opinion by the Mexican Government at that time as to the soundness of the views expressed by the Hon. Mr. Cushing.

From the last-mentioned date until the signing of the convention of 1884 a considerable amount of diplomatic correspondence took place as to the meaning and effect of the boundary treaties of 1848 and 1853. Without going into all the details of this correspondence, which has been fully discussed in the printed and oral arguments of the parties, it is sufficient to say that during that period, with the exception of certain statements contained in a letter of Mr. Frelinghuysen, which will be adverted to later, the Government of the United States consistently adhered to the principles enunciated by Attorney

General Cushing. On the Mexican side the correspondence reveals more fluctuations of opinion; the writers sometimes indicating their view that the boundary created by the treaties in question was a fixed line, but more frequently qualifying such statements by making an exception in the case of slow and successive increases resulting from alluvial deposits.

While considerable importance appeared to be attached by the parties to various expressions contained in this correspondence, the commissioners, at an early stage in the argument, expressed their view that neither of the high contracting parties should be bound by the unguarded language contained in many of the letters. The only real importance to be attached to this correspondence is that it shows conclusively that a considerable doubt existed as to the meaning and effect of the boundary treaties of 1848 and 1853.

However strongly one might be disposed to think that the treaty of 1848, taken by itself, or the treaty of 1853, taken by itself, indicated an intention to establish a fixed line boundary, it would be difficult to say that the question is free from doubt, in view of the opinion expressed by so high an authority as the Hon. Mr. Cushing upon the very point at issue, and in view of the occasional concurrence in this opinion by some of the higher Mexican officials at the time it was given.

It is in consequence of this legitimate doubt as to the true construction of the boundary treaties of 1848 and 1853 that the subsequent course of conduct of the parties and their formal conventions may be resorted to as aids to construction. In the opinion of the majority of this commission the language of the subsequent conventions and the consistent course of conduct of the high contracting parties is wholly incompatible with the existence of a fixed line boundary.

In 1884 the following boundary convention was concluded between the two Republics:

Boundary Convention, Rio Grande and Rio Colorado.

Convention between the United States of America and the United States of Mexico touching the boundary line between the two countries where it follows the bed of the Rio Grande and the Rio Colorado.

Whereas, in virtue of the 5th article of the treaty of Guadalupe Hidalgo between the United States of America and the United States of Mexico, concluded February 2, 1848, and of the first article of that of December 30, 1853, certain parts of the dividing line between the two countries follow the middle of the channel of the Rio Grande and the Rio Colorado, to avoid difficulties which may arise through the changes of channel to which those rivers are subject through the operation of natural forces, the Government of the United States of America and the Government of the United States of Mexico have resolved to conclude a convention which shall lay down rules for the determination of such questions, and have appointed as their plenipotentiaries:

The President of the United States of America, Frederick T. Frelinghuysen, Secretary of State of the United States; and the President of the United States of Mexico, Matias Romero, envoy extraordinary and minister plenipotentiary of the United Mexican States;

Who, after exhibiting their respective full powers, found in good and due form, have agreed upon the following articles:

Article I.

The dividing line shall forever be that described in the aforesaid treaty and follow the center of the normal channel of the rivers named, notwithstanding any alterations in the banks or in the course of those rivers, provided that such alterations be effected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of an existing river bed and the opening of a new one.

Article II.

Any other change wrought by the force of the current, whether by the cutting of a new bed or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid treaty, shall produce no change in the dividing line as fixed by the surveys of the International Boundary Commissions in 1852; but the line then fixed shall continue to follow the middle of the original channel bed, even though this should become wholly dry or be obstructed by deposits.

Article III.

No artificial change in the navigable course of the river, by building jetties, piers, or obstructions which may tend to deflect the current or produce deposits of alluvium, or by dredging to deepen another than the original channel under the treaty when there is more than one channel, or by cutting waterways to shorten the navigable distance, shall be permitted to affect or alter the dividing line as determined by the aforesaid commissions in 1852 or as determined by Article I hereof and under the reservation therein contained; but the protection of the banks on either side from erosion by revetments of stone or other material not unduly projecting into the current of the river shall not be deemed an artificial change.

ARTICLE IV.

If any international bridge have been or shall be built across either of the rivers named, the point on such bridge exactly over the middle of the main channel as herein determined shall be marked by a suitable monument, which shall denote the dividing line for all the purposes of such bridge, notwithstanding any change in the channel which may thereafter supervene. But any rights other than in the bridge itself and in the ground on which it is built shall in event of any such subsequent change be determined in accordance with the general provisions of this convention.

ARTICLE V.

Rights of property in respect of lands which may have become separated through the creation of new channels as defined in Article II hereof shall not be affected thereby, but such lands shall continue to be under the jurisdiction of the country to which they previously belonged.

In no case, however, shall this retained jurisdictional right affect or control the right of navigation common to the two countries under the stipulations of Article VII of the aforesaid treaty of Guadalupe Hidalgo; and such common right shall continue without prejudice throughout the actually navigable main channels of the said rivers, from the mouth of the Rio Grande to the point where the Rio Colorado ceases to be the international boundary, even though any part of the channel of said rivers, through the changes herein provided against, may be comprised within the territory of one of the two nations.

ARTICLE VI.

This convention shall be ratified by both parties in accordance with their respective constitutional procedure, and the ratifications exchanged in the city of Washington as soon as possible.

In witness whereof the undersigned plenipotentiaries have hereunto set their hands and seals.

Done at the city of Washington, in duplicate, in the English and Spanish languages, this 12th day of November, A. D. 1884.

The preamble of this convention states that it refers to those parts of the boundary line between the two countries *which follow the bed of the Rio Grande and the Rio Colorado*, and proceeds to explain that the portions of the dividing line between the two countries which follows the middle of the channel of the Rio Grande and the Rio Colorado are those mentioned in the treaties of 1848 and 1853. The convention thus seems to have been designed to apply to the whole of the Rio Grande in so far as the treaties of 1848 and 1853 constitute this river as the dividing line between the two countries. The first article provides that the dividing line shall forever be that described in the aforesaid treaty, and following the center of the normal channel of the rivers named, etc. This appears to be a clear recognition of the fact that the line which is, according to the agreement of the parties, to be henceforth their boundary line, is also that which was created by the former treaties. It is, to that extent, a declaratory article importing into the treaties of 1848 and 1853 the construction which the parties had determined to adopt, as the preamble states, in order "to avoid difficulties which may arise through the changes of channel to which those rivers are subject through the operation of natural forces," and "to lay down rules for the determination of such questions."

On behalf of Mexico it has been strenuously contended that this convention was intended to operate in the future only, and that it should not be given a retroactive effect so as to apply to any changes which had previously occurred. Reference was made to a number of well-known authorities establishing the proposition that laws and treaties are not usually deemed to be retrospective in their effect. An equally well-known exception to this rule is that of laws or treaties which are intended to be declaratory, and which evidence the intention of putting an end to controversies by adopting a rule of construction applicable to laws or conventions which have been subject to dispute. The internal evidence contained in the convention of 1884 appears to be sufficient to show an intention to apply the rules laid down for the determination of difficulties which might arise through the changes in the river Rio Grande, whether these changes had occurred prior to or after the convention, and they appear to have been intended to codify the rules for the interpretation of the previous treaties of 1848 and 1853 which had formed the subject of diplomatic correspondence between the parties. While it is perfectly true that the convention was to be applied to *disputes* which might arise in future, it nowhere restricts these difficulties to future changes in the river. It expressly declares that by the treaties of 1848 and 1853, the dividing line had followed the middle of the river, and that henceforth the same rule was to apply.

At the time this convention was signed all the great changes in the course of the Rio Grande had occurred, and practically the whole Chamizal tract had been formed. It appears, in fact, that the river of 1852 and the river of 1884 had no points in common, except points of intersection. It is quite true that

the parties may not have been aware of the entire separation of the old river bed from the new, from El Paso down to the Gulf of Mexico, but the fact remains that all the great and visible changes which are reported to have taken place during the floods extending from 1864 to 1868 had done their work, and, in the case of the Chamizal tract, the changes had been so considerable in the upper portion of the river, which is proved to have been less liable to modifications owing to the nature of its soil than the lower part of the river, that it formed the subject of much diplomatic correspondence.

Having regard to the existence of such notable changes in the river bed, it is obvious that the convention of 1884 would have been nugatory and inapplicable upon the hypothesis of a fixed line boundary, for when once the river had moved away from the fixed line into the territory of one or other of the two nations it was idle and useless to provide for erosive or other changes which might subsequently occur in its bed, the river being *ex hypothesi*, wholly in the territory of one or other of the nations on either side of the supposed fixed boundary.

If any doubt could be entertained as to the intention of the parties in making this convention, it would disappear upon a consideration of the uniform and consistent manner in which it was subsequently declared by the two Governments to apply to past as well as to future changes in the river.

Copious references were made by the parties to the diplomatic correspondence which preceded this convention, but these communications, when closely examined, are inconclusive and add little or nothing to the language of the treaty.

Equally inconclusive are the declarations made after the signing of the convention by high officers of States on both sides. For example, Senor Romero, on the 13th April, 1884, is reported to have said to the Mexican department of foreign affairs that the treaty did not decide cases previous to its date, because it could not have retroactive effect, but could only be applied to such cases as might occur subsequently. On the other hand, the President of Mexico, in his message of April, 1891, recommending the adoption of the convention of 1889, which created the boundary commission to carry out the provisions of the convention of 1884, refers to the convention as being for the establishment of an international commission to study and determine *pending* boundary questions, or those which may arise by reason of the variation of the course of the river.

It would be useless to multiply citations from diplomatic correspondence, which is not always consistent, and which falls under the rule laid down by The Hague Tribunal in the recent award in the North Atlantic Coast Fisheries reference. Speaking of similar unguarded expressions contained in diplomatic correspondence the presiding commissioner expressed the following opinion, which seems applicable to a great many of the communications which have been relied upon by one or other of the parties in the present case:

> The tribunal, unwilling to invest such expressions with an importance entitling them to affect the general question, considers that such conflicting or inconsistent expressions as have been exposed on either side are sufficiently explained by their relations to ephemeral phases of a controversy of almost secular duration, and should be held to be without direct effect on the principal and present issues.

The same considerations apply to the correspondence with reference to a claim to Morteritors Island, on which considerable reliance was placed by Mexican counsel as showing the abandonment of the United States of the view set forth in Attorney General Cushing's opinion, and an acceptance of the fixed line theory. Without discussing the details of this case, it is sufficient to say that the decision arrived at was in no way based upon the fixed boundary theory, but was a conclusion which was inevitable from the application of the treaties of 1848 to 1853. It is contended, however, that certain expressions used by Mr. Secretary Frelinghuysen in his correspondence with the Mexican Government, when he was resisting the Mexican claim, are inconsistent with the idea of a fluvial boundary, and can only be explained on the theory that Mr. Frelinghuysen believed in the existence of a fixed boundary. Viewed in connection with the facts of the case, these expressions scarcely bear the interpretation which the Mexican counsel desire to put upon them, but even assuming that in the course of his argument on behalf of his department, Mr. Frelinghuysen committed himself to the theory that the United States could not recognize the annexation of its territory by accretion, such casual and unguarded language, which was certainly not relevant to the decision of the case upon the facts actually proved, could not bind his Government any more than similar expressions used by Mexican high officials, above referred to, could bind their Government.

Far more conclusive is the course of action entered upon and persistently followed by both nations upon the appointment of the boundary commission of 1889.

In 1893 a dispute arose in a case known as the "Banco de Camargo," which involved a claim that the land had formed by gradual erosion and deposit of alluvium since 1865. After a correspondence between Señor Mariscal and the United States minister, in which they refer to the convention of 1884, it was decided to bring the case, along with similar ones, before the attention of the boundary commission, when organized. Upon the organization of the commission the case was duly submitted, and the commission found that the erosion in question dated back to the year 1865, and applied the provisions of the convention of 1884 to its solution.

In 1893 a dispute arose as to the arrest of American citizens on land which was claimed by citizens of both nations, and which had formed on the edge of the river prior to 1884. The two Governments thereupon agreed to refer the matter to the International Boundary Commission, which was organized for work on the 4th January, 1894.

In the case of the "Banco de Vela," a claim based upon accretions which began in 1853, the matter was also referred to the boundary commission.

In the case of the "Banco de Granjeno," under circumstances which were similar, the accretions having begun in 1853, the controversy was referred to and dealt with by the same commission.

In the case of the "Banco de Santa Margarita," an analogous condition existed, and a similar disposition of the case was made.

The bancos above referred to were formed by accretions to land on one side of the river, with erosions on the other side, until the channel ran on a curve, and a time came when the force of the current made a new channel, leaving a banco between the new and old channel.

In dealing with the above cases the commissioners, in a joint report dated 15th January, 1895, concluded that the application of the treaty of 1884 to these bancos would be inconvenient and would create difficulties which had not been foreseen. They accordingly recommended the elimination of the bancos from the convention of 1884 and the signing of a special agreement with reference thereto.

As a result of this report, a convention was formally signed in 1905, which clearly acknowledges the application of Article II of the Convention of 1884 to fifty-eight bancos which had been surveyed and described in the report of the consulting engineers.

The convention further recites "That the application to these bancos of the principle established in Article II of the Convention of 1884 renders difficult the solution of the controversies mentioned, and, instead of simplifying, complicates the said boundary line between the two countries," and provides that these bancos, together with those which may in future be formed, shall be eliminated from the operation of the convention of 1884, and shall be dealt with in a different manner.

This recognition of the retrospective application of the convention of 1884 is not that of subordinates, but of the Governments themselves, which expressly adopted the views of the commissioners as to the application of the treaty of 1884 and as to the desirability of taking such cases, both past and future, out of the convention and substituting new provisions.

In 1895 the Chamizal claim was submitted to the commission in a letter of Mr. Mariscal, above referred to. While the claim is a private one, there is no doubt that it was presented with the authority and concurrence of the Mexican Government and received its support throughout its various stages as involving a controversy as to the international title to the Chamizal tract. The claim of Pedro Y. Garcia, on its face, showed that it was based on changes which had occurred in the river prior to 1884, and, notwithstanding this well-known fact, the matter was referred to the International Boundary Commission to be dealt with, and would have been disposed of but for a disagreement between the two commissioners, one of whom considered that the changes had resulted from slow and gradual erosion, as required by the convention of 1884, while the other commissioner considered that the erosion had been violent and intermittent and not of such a character as, under the terms of the convention of 1884, could change the international boundary.

While the Chamizal case was pending before the International Boundary Commission, they became seized of the controversy concerning the island of San Elizario, which was presented to the commission by the Mexican com-

missioner on the 4th November, 1895. The decision in this case, rendered on the 5th October, 1896, was based upon changes which occurred in the years 1857 and 1858. Like all other decisions of the boundary commission, it was communicated to the Mexican Government, which, under the terms of the Convention of 1889, could disapprove of the action of the commissioners within one month from the day of its pronouncement. Far from being disallowed, the decision was expressly approved by the Mexican Government, as appears from the letter addressed by Mr. Mariscal to the Mexican minister at Washington on 5th October, 1896.

Thus in all cases dealt with by the two Governments after the convention of 1884 referring to river changes occurring prior to that date, the provisions of that convention were invariably and consistently applied.

On the whole, it appears to be impossible to come to any other conclusion than that the two nations have, by their subsequent treaties and their consistent course of conduct in connection with all cases arising thereunder, put such an authoritative interpretation upon the language of the treaties of 1848 and 1853 as to preclude them from now contending that the fluvial portion of the boundary created by those treaties is a fixed line boundary.

The presiding commissioner and the American commissioner therefore hold that the treaties of 1848 and 1853, as interpreted by subsequent conventions between the parties and by their course of conduct, created an arcifinious boundary, and that the convention of 1884 was intended to be and was made retroactive by the high contracting parties.

(Mr. Commissioner Puga dissents from this holding for the reasons set forth in his subjoined opinion.)

PRESCRIPTION.

In the countercase of the United States, the contention is advanced that the United States has acquired a good title by prescription to the tract in dispute, in addition to its title under treaty provisions.

In the argument it is contended that the Republic of Mexico is estopped from asserting the national title over the territory known as "El Chamizal" by reason of the undisturbed, uninterrupted, and unchallenged possession of said territory by the United States of America since the treaty of Guadalupe Hidalgo.

Without thinking it necessary to discuss the very controversial question as to whether the right of prescription invoked by the United States is an accepted principle of the law of nations, in the absence of any convention establishing a term of prescription, the commissioners are unanimous in coming to the conclusion that the possession of the United States in the present case was not of such a character as to found a prescriptive title. Upon the evidence adduced it is impossible to hold that the possession of El Chamizal by the United States was undisturbed, uninterrupted, and unchallenged from the date of the treaty of Guadalupe Hidalgo in 1848 until the year 1895, when, in consequence of the creation of a competent tribunal to decide the question, the Chamizal case was first presented. On the contrary, it may be said that the physical possession taken by citizens of the United States and the political control exercised by the local and Federal Governments, have been constantly challenged and questioned by the Republic of Mexico, through its accredited diplomatic agents.

As early as 1856, the river changes threatening the Valley of El Paso had caused anxious inquiries, which resulted in a reference of the matter to the Hon. Caleb Cushing for his opinion.

In January, 1867, Don Matias Romero forwarded to Mr. Seward, Secretary of State, a communication from the perfecture of Brazos relating to the controversy between the people of El Paso del Norte (now Juarez) and the people of Franklin (now El Paso, Tex.) over the Chamizal tract, then in process of formation. From that time until the negotiation of the convention of 1884, a considerable amount of diplomatic correspondence is devoted to this very question, and the convention of 1884 was an endeavor to fix the rights of the two nations with respect to the changes brought about by the action of the waters of the Rio Grande.

The very existence of that convention precludes the United States from acquiring by prescription against the terms of their title, and, as has been pointed out above, the two Republics have ever since the signing of that convention treated it as a source of all their rights in respect of accretion to the territory on one side or the other of the river.

Another characteristic of possession serving as a foundation for prescription is that it should be peaceable. In one of the affidavits filed by the United States to prove their possession and control over the Chamizal district (that of Mr. Coldwell) we find the following significant statement:

In 1874 or 1875 I was present at an interview between my father and Mr. Jesus Necobar y Armendariz, then Mexican collector of customs at Paso del Norte, now Ciudad Juarez, which meeting took place at my father's office on this side of the river.

Mr. Necobar asked my father for permission to station a Mexican customhouse officer on the road leading from El Paso to Juarez, about 200 or 300 yards north of the river. My father replied in substance that he had no authority to grant any such permission, and even if he had, and granted permission, it would not be safe for a Mexican customs officer to attempt to exercise any authority on this side of the river.

It is quite clear from the circumstances related in this affidavit that however much the Mexicans may have desired to take physical possession of the district, the result of any attempt to do so would have provoked scenes of violence and the Republic of Mexico can not be blamed for resorting to the milder forms of protest contained in its diplomatic correspondence.

In private law, the interruption of prescription is effected by a suit, but in dealings between nations this is of course impossible, unless and until an international tribunal is established for such purpose. In the present case, the Mexican claim was asserted before the International Boundary Commission within a reasonable time after it commenced to exercise its functions, and prior to that date the Mexican Government had done all that could be reasonably required of it by way of protest against the alleged encroachment.

Under these circumstances the commissioners have no difficulty in coming to the conclusion that the plea of prescription should be dismissed.

APPLICATION OF THE CONVENTION OF 1884.

Upon the application of the convention of 1884 to the facts of this case the commissioners are unable to agree.

The presiding commissioner and the Mexican commissioner are of the opinion that the evidence establishes that from 1852 to 1864 the changes in the river, which during that interval formed a portion of the Chamizal tract, were caused by slow and gradual erosion and deposit of alluvium within the meaning of Article I of the convention of 1884.

They are further of opinion that all the changes which have taken place in the Chamizal district from 1852 up to the present date have not resulted from any change of bed of the river. It is sufficiently shown that the Mexican bank opposite the Chamizal tract was at all times high and that it was never overflowed, and there is no evidence tending to show that the Rio Grande in that vicinity ever abandoned its existing bed and opened a new one. The changes, such as they were, resulted from the degradation of the Mexican bank and the alluvial deposits formed on the American bank, and, as has been said, up to 1864 this erosion and deposit appears to come within Article I of the convention of 1884.

With respect to the nature of the changes which occurred in 1864 and during the four succeeding years, the presiding commissioner and the Mexican commissioner are of opinion that the phenomena described by the witnesses as having occurred during that period can not properly be described as alterations in the river effected through the slow and gradual erosion and deposit of alluvium.

The following extracts from the evidence are quoted by the presiding commissioner and the Mexican commissioner in support of their views:

JESUS SERNA: Q. When the change took place was it slow or violent?—A. The change was violent, and destroyed the trees, crops, and houses.

YNOCENTE OCHOA: Q. When the change took place was it slow or violent?—A. As I said before, it was sometimes slow and sometimes violent, and with such force that the noise of the banks falling seemed like the boom of cannon, and it was frightful.

E. PROVINCIO: Q. Explain how you know what you have stated.—A. Because the violent changes of the river in 1864 caused considerable alarm to the city, and the people went to the banks of the river and pulled down trees and tried to check the advance of the waters. I was there sometimes to help and sometimes simply to observe. I helped to take out furniture from houses in danger and to remove beams of houses, etc.

Q. When the change took place was it slow or violent?—A. I can not appreciate what is meant by slow or violent, but sometimes as much as fifty yards would be washed away at certain points in a day.

* * * * * * *

Q. Please describe the destruction of the bank on the Mexican side that you spoke of in your former testimony. Describe the size of the pieces of earth that you saw fall into the river.—A. When the river made the alarming change it carried away pieces of earth one yard, two yards, etc., constantly, in intervals of a few minutes. At the time of these changes the people would be standing on the banks watching a piece going

down, and somebody would call "look out, there is more going to fall" and they would have to jump back to keep from falling into the river.

* * * * * * *

Q. Do you think that those works were constructed to protect against the slow and gradual work of the river or against the floods?—A. They were made to protect the town from being carried away in the event of another flood like that of '64, because the curve that the river had made was dangerous to the town.

JOSE M. FLORES: Q. Did the current come with such violence between 1864 and 1868 that houses and fields were destroyed?—A. Yes, sir.

* * * * * * *

Q. Please describe the manner of the tearing away of the Mexican bank by the current when these changes were taking place.—A. The current carried the sand from the bank and cut in under, and then these pieces would fall into the water. If the bank was very high it took larger pieces; say two yards, never more than three yards wide, and where the banks were low it took smaller pieces.

DOCTOR MARIANO SAMANIEGO describes the violence of the change as follows: "The changes were to such a degree that at times during the night the river would wear away from fifty to one hundred yards. There were instances in which people living in houses fifty yards from the banks on one evening had to fly in the morning from the place on account of the enroachments of the river, and on many occasions they had no time to cut down their wheat or other crops. It carried away forests without giving time to the people to cut the trees down.

Q. Of the changes of the river that you have mentioned, were they all perceptible to the eye?—A. Yes, sir.

The presiding commissioner and the Mexican commissioner consider that the changes referred to in this testimony can not by any stretch of the imagination, or elasticity of language, be characterized as slow and gradual erosion.

The case of Nebraska *v.* Iowa (143 U. S., 359), decided by the Supreme Court of the United States in 1892, is clearly distinguishable from the present case. In Nebraska *v.* Iowa the court, applying the ordinary rules of international law to a fluvial boundary between two States, hold that while there might be an instantaneous and obvious dropping into the Missouri River of quite a portion of its banks, and while the disappearance, by reason of this process, of a mass of bank might be sudden and obvious, the accretion to the other side was always gradual and by the imperceptible deposit of floating particles of earth. The conclusion was, therefore, that notwithstanding the rapidity of the changes in the course of the channel, and the washing from the one side onto the other, the law of accretion controlled on the Missouri River, as elsewhere.

In the present case, however, while the accretion may have been slow and gradual, the parties have expressly contracted that not only the accretion, but the erosion, must be slow and gradual. The convention of 1884 expressly adopts a rule of construction which is to be applied to the fluvial boundary created by the treaties of 1848 and 1853, and this rule is manifestly different from that which was applied in the case of Nebraska *v.* Iowa, in which the court was not dealing with a special contract. If it had been called upon, in the case just cited, to decide whether the degradation of the bank of the Missouri River had occurred through a slow and gradual process the answer would undoubtedly have been in the negative.

In the case of St. Louis *v.* Rutz (138 U. S., 226), the Supreme Court of the United States, dealing with facts very similar to those established by the evidence in the present case, found that the washing away of the bank of the Mississippi River did not take place slowly and imperceptibly, but, on the contrary, the caving in and washing away of the same was rapid and perceptible in its progress; that such washing away of said river bank occurred principally at the rises of floods of high water in the Mississippi River, which usually occurred in the spring of the year; that such rises or floods varied in their duration, lasting from four to eight weeks before the waters of the river would subside to their ordinary stage or level; that during each flood there was usually carried away a strip of land from off said river bank from 240 to 300 feet in width, which loss of land could be seen and perceived in its progress; that as much as a city block would be cut off and washed away in a day or two, and that blocks or masses of earth from 10 to 15 feet in width frequently caved in and were carried away at one time.

If the degradation of the bank of the Mississippi River, above described, was found by the Supreme Court not to be slow and imperceptible progress, it is difficult to understand how the destruction of land, houses, and forests, described by the witnesses in the present case, can be regarded as examples of slow and gradual erosion.

Nor can the presiding commissioner and the Mexican commissioner give effect to the contention that Mexico must be held to have put a construction on the words "slow and gradual" in the preamble of the Banco Treaty of 1905, which

adopted the report of the commissioners stating that the changes producing the bancos were due to slow and gradual erosion coupled with avulsion, although it is alleged by the United States that the erosion in that case was even more violent than that which occurred at the Chamizal. The report rendered by the commissioners to their respective governments in no way discloses any facts tending to show the nature and extent of the erosive changes, and properly so, because that was not material to the question to be decided. It is true that by making a minute examination of the plans accompanying the report the actual extent of the erosive changes might have been ascertained, but there certainly was nothing in the question submitted to the governments for solution to necessitate, or even suggest, such an inquiry.

It has also been contended on behalf of the United States that before the signing of the treaty of 1905 the Mexican Government had received the opinion of the American commissioner in the Chamizal case, which asserted that if the erosion in Chamizal was not slow and gradual, then *a fortiori* the erosion which had formed the bancos in the lower part of the river could not be slow and gradual. The effect of this assertion on the part of the American commissioner, however, was counteracted by the reply of the Mexican commissioner, who argued that there was no similarity between the two cases and no inconsistency between his report on the bancos and his attitude in the Chamizal case. Under these circumstances it is reasonable to conclude that the Mexican Government adopted the view of their commissioner, and in any event it can not be successfully contended that in assenting to the language of the preamble of the Banco Treaty it was precluded from contending that the Chamizal case was of a different nature.

It has been suggested, and the American commissioner is of opinion, that the bed of the Rio Grande, as it existed in 1864, before the flood, can not be located, and moreover that the present commissioners are not authorized by the convention of the 5th December, 1910, to divide the Chamizal tract and attribute a portion thereof to the United States and another portion to Mexico. The presiding commissioner and the Mexican commissioner can not assent to this view and conceive that in dividing the tract in queston between the parties, according to the evidence as they appreciate it, they are following the precedent laid down by the Supreme Court of the United States in Nebraska *v.* Iowa, above cited. In that case the court found that up to the year 1877, the changes in the Missouri River were due to accretion, and that, in that year, the river made for itself a new channel. Upon these findings it was held that the boundary between Iowa and Nebraska was a varying line in so far as affected by accretion, but that from and after 1877 the boundary was not changed, and remained as it was before the cutting of a new channel. Applying this principle, *mutatis mutandis*, to the present case, the presiding commissioner and the Mexican commissioner are of opinion that the accretions which occurred in the Chamizal tract up to the time of the great flood in 1864 should be awarded to the United States of America, and that inasmuch as the changes which occurred in that year did not constitute slow and gradual erosion within the meaning of the convention of 1884, the balance of the tract should be awarded to Mexico.

They also conceive that it is not within their province to relocate that line, inasmuch as the parties have offered no evidence to enable the commissioners to do so. In the case of Nebraska *v.* Iowa the court contented itself with indicating, as above stated, the boundary between the two States and invited the parties to agree to a designation of the boundary upon the principles enunciated in the decision.

The American commissioner dissents from the above holding, for the reasons given in his subjoined memorandum, and is of opinion that all the changes which have taken place at the Chamizal since 1852 were due to slow and gradual erosion and deposit of alluvium, within the meaning of the convention of 1884.

He is further of opinion that the commissioners have no jurisdiction to separate the Chamizal tract, and award a portion to the United States and a portion to Mexico; and, in view of his conviction that the position of the river bed in 1864 can not be ascertained, he considers that the award of the majority of the commissioners can not be made effective.

Wherefore the presiding commissioner and the Mexican commissioner, constituting a majority of the said commission, hereby award and declare that the international title to the portion of the Chamizal tract lying between the middle

of the bed of the Rio Grande, as surveyed by Emory and Salazar in 1852, and the middle of the bed of the said river as it existed before the flood of 1864, is in the United States of America, and the international title to the balance of the said Chamizal tract is in the United States of Mexico.

The American commissioner dissents from the above award.

El Paso, 15th June, 1911.

(Signed) E. LAFLEUR,
ANSON MILLS,
F. B. PUGA.

Dissenting opinion of the American commissioner.

The American commissioner concurs in the findings of the presiding commissioner to the effect that the treaties of 1848 and 1853 did not establish a fixed and invariable line; that the treaty of 1884 was retroactive, and in the finding of the presiding commissioner and the Mexican commissioner to the effect that the United States has not established a title to the Chamizal tract by prescription. He is compelled to dissent *in toto* from so much of the opinion and award as assumes to segregate the Chamizal tract and to divide the parts so segregated between the two nations, and from that part of the opinion and award which holds that a portion of the Chamizal tract was not formed through "slow and gradual erosion and deposit of alluvium" within the terms of the treaty of 1884.

The reasons for the dissent are threefold: First, because in his opinion, the commission is wholly without jurisdiction to segregate the tract or to make other findings concerning the change at El Chamizal than "to decide whether it has occurred through avulsion or erosion, for the effects of articles 1 and 2 of the convention of November 12, 1884" (and art. 4, convention of 1889), Secondly, because, in his opinion, the convention of 1884 is not susceptible to any other construction than that the change of the river at El Chamizal was embraced within the first alternative of the treaty of 1884. And, thirdly, because, in his opinion. the finding and award is vague, indeterminate, and uncertain in its terms, and impossible of execution.

DIVISION OF TRACT A DEPARTURE FROM CONVENTION OF 1910.

In the judgment of the American commissioner, articles 1 and 3 of the convention of June 24, 1910, providing for the present arbitration, submit to this commission the question as to the international title of the Chamizal tract in its entirety and this question only. Article I of the convention bounds the Chamizal tract with technical accuracy, while article 3 provides that "the Commission shall decide solely and exclusively as to whether the international title to the Chamizal tract is in the United States of America or Mexico."

It is believed that by those provisions, when read together, the two governments have asked this commission a specific and definite question and that the commission is "solely and exclusively" empowered and required to give a specific and definite answer—either that the international title to the Chamizal tract as defined in the convention is in the United States or that it is in Mexico. The *prima facie* meaning of the language of the convention is reinforced when the convention is read in the light of the history of the controversy which called it into being, and in the light of the conduct of the two parties before this commission. From Señor Romero's note of January 9, 1867 (U. S. Case App., p. 553) which is, so far as appears, the first reference to what is now known as the Chamizal tract in the correspondence between the two governments, down to the concluding arguments before this commission on June 2 last, there is not the slightest suggestion on the part of either of the two governments that there could be any question of a division of the tract. The presiding commissioner was the first to raise the question of a division of the tract in connection with another point which was under discussion by counsel for the United States. (Record, pp. 430, 432.) Subsequently, counsel for Mexico defined the attitude of Mexico as to the issue before the Tribunal in the following language:

> In answer to that (*i. e.*, the suggestion that no monuments were fixed) I have but to remind this court that the treaty of 1910 says that the monuments are fixed, says that the line was run, tells this court where to find it and says that either that is the line between this country and Mexico or the present channel of the Rio Grande as it runs is the line. (Record, p. 500.)

Thereafter, counsel for the United States recurred to the question and specifically took the position that the only question before the Tribunal was as to

the international title to the tract in its entirety, called attention to the evident agreement of the parties upon this point, and pointed out that a decree segregating the tract "would be a departure from the terms of the convention." (Record, pp. 535, 536.)

Even in ordinary tribunals of general jurisdiction it is regarded as a dangerous practice for the court to award a decree not solicited or indorsed by counsel for either party. Is not this danger accentuated when an international tribunal, which has no powers except those conferred upon it by the terms of the submission under which it sits, assumes to raise and answer a question never suggested by the parties in the course of negotiations extending over fifty years and not indorsed by either party in argument when suggested from the bench? Particularly is this true when it can be asserted without fear of contradiction that if there had been the slightest idea in the minds of the negotiators of the treaty of June 24, 1910, that it was susceptible of the construction which has been placed upon it by the majority of the commission, the possibility of such an unfortunate result would have been eliminated in even more precise and affirmative language.

The commissioner for the United States is unable to understand the force of the reference in the opinion of the presiding commissioner to the case of Nebraska *v.* Iowa as a "precedent" for "dividing the tract in question between the parties." There is an apparent difference between the powers of the Supreme Court of the United States, acting under the provisions of the Constitution of the United States, conferring general and original jurisdiction in controversies between States on a bill and cross bill in equity to establish a disputed boundary line between two States, and this commission with powers and jurisdiction strictly limited by the conventions which have called it into being. Indeed, the opinion of the majority of the commission seems to recognize this distinction in another connection in stating the proposition, in which the American commissioner concurs, that the present commission, unlike the Supreme Court in Nebraska *v.* Iowa, is bound by the terms of the convention of 1884. It is also bound by the terms of the convention of 1910.

It is axiomatic that "a clear departure from the terms of the reference" (Twiss, The Law of Nations, 2d ed., 1875, p. 8) invalidates an international award, and the American commissioner is constrained to believe that such a departure has been committed by the majority of the commission in this case in dividing the Chamizal tract and deciding a question not submitted by the parties.

TWO KINDS OF EROSION A DEPARTURE FROM CONVENTION OF 1884.

But this is not all; as The Hague Court recently pointed out in the case of the Orinoco Steamship Co., "excessive exercise of power may consist not only in deciding a question not submitted to the arbitrators, but also in misinterpreting the express provisions of the agreement in respect of the way in which they are to reach their decisions, notably with regard to the legislation or the principles of law to be applied." (United States *v.* Venezuela, before The Hague Court. American Journal of International Law, vol. 5, No. 1, pp. 232 and 233.)

The preamble of the convention of June 24, 1910, prescribed the law which governs this commission, namely, "the various treaties and conventions now existing between the two countries and * * * the principles of international law." The commission has held the convention of 1884 retroactive and therefore in general applicable to this case. While the convention of 1884 purports to cover all changes that may occur in the course of the Rio Grande and the Rio Colorado where they constitute a boundary between the United States and Mexico, it nevertheless makes provision for but two methods of effecting such changes, or rather distinguishes the changes which may occur into two distinct classes, viz, one covers alterations in the banks or the course of those rivers, effected by natural causes through the slow and gradual erosion and deposit of alluvium, and the other covers "any other change wrought by the force of the current, whether by the cutting of a new bed or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made in 1852."

The American commissioner deems it unnecessary to examine further into the question of the cutting or deepening of a new bed since the presiding commissioner and the Mexican commissioner have found that no change which has taken place opposite the Chamizal tract since 1852 has resulted "from any change of bed of the river" (Opinion, p. 29), and in that finding the American commissioner concurs.

The commissioner for the United States does deem it proper, however, to point out that the language of Article II of the convention of 1884 makes no provisions respecting the boundary in the event of any other change of the river than that embraced in "the cutting of a new bed" or the "deepening of another channel than that which marked the boundary at the time of the survey" of 1852.

It is true that Article II of the convention begins with the words "any other change wrought by the force of the current," but those words are immediately followed by the provision "whether by the cutting of a new bed, or when there is more than one channel by the deepening of another channel than that which formed the boundary at the time of the survey made under the aforesaid treaty."

It is a rule of interpretation which the Supreme Court of the United States says to be "of universal application" (United States *v.* Arredondo, 6 Pet., 691) that "where specific and general terms of the same nature are embraced in the statute, whether the latter precede or follow the former, the general terms take their meaning from the specific and are presumed to embrace only things or persons designated by them." (Fontenet *v.* The State, 112 La., 628, 36 So. Rep., 630.)

Authorities to support this proposition might be adduced without number, but reference will be made to a few; U. S. *v.* Bevans, 3 Wheat., at p. 390; Moore *v.* American Transportation Co., 24 Howard, 1–41; U. S. *v.* Irwin, Federal Cases No. 14445; Supreme Court of Ky. in City of Covington *v.* McNicholas Heirs, 57 Ky., 262; Rogers *v.* Boiller, 3 Mart. O. S., 665; City of St. Louis *v.* Laughlin, 49 Mo., 559; Brandon *v.* Davis, 2 Leg. Rec., 142; Felt *v.* Felt, 19 Wis., 183, also State *v.* Gootz, 22 Wis., 363; Gaither *v.* Green, 40 La. Ann., 362; 4 So. Rep., 210; Phillips *v.* Christian Co., 87 Ill. App., 481; In re Rouse, Hazzard & Co., 91 Fed. Rep., 96; Barbour *v.* City of Louisville, 83 Ky., 95; Townsend Gas & Electric Co. *v.* Hill, 64 Pac. Rep., 778, 24 Wash., 369; State *v.* Hobe, 82 N. W., Rep., 336, 106 Wis., 411.

In Regina *v.* France, 7 Quebec Q. B., 83, it is stated that:

It is immaterial, it has been held, whether the generic term precedes or follows the specific terms which are used. In either case the general word must take its meaning and be presumed to embrace only things or persons of the kind designated in the specific words. (Quoted from Am. & Eng. Enc. of Law, vol. 26, p. 610, under captain "Statute.")

DID THE UNITED STATES ABANDON VESTED RIGHTS?

Not only does the language of Article II confine its meaning to specific changes of channel described therein, but the fifth article of the same convention makes provision for the protection of property rights "in respect of lands which may have became separated through the creation of new channels as defined in Article II," but it makes no provision whatever for the protection of property rights in contemplation of any other change in the course of the river, much less does it make such provision as to lands degraded by rapid and violent erosion. It was suggested by the honorable presiding commissioner during the argument of this case that no provision was necessary to protect private rights in case the land was carried away by any character of erosion because the property itself was destroyed and no private rights could remain. (Record, pp. 704, 705.) In this proposition the United States commissioner concurs, but he is wholly at a loss to discover how a public or international title could remain in property that was so effectually destroyed as to annihilate private rights. Even supposing it was unnecessary to protect private rights on the banks thus degraded, would no idea have suggested itself with regard to the rights of those who had taken up their residence on the other side, for instance at El Chamizal, or at Santa Cruz Point? As suggested by the presiding commissioner, "all the great changes in the course of the Rio Grande had occurred and practically the whole Chamizal tract had been formed * * * but the fact remains that all the great and visible changes which are reported to have taken place during the floods extending from 1864 to 1868 had done their work, and, in the case of the Chamizal tract, the changes had been so considerable in the upper portion of the river, which is proved to have been less liable to modifications owing to the nature of its soil than the lower part of the river, that it formed the subject of much diplomatic correspondence." (Opinion, p. 20.) And yet the record in the case discloses that every foot of the accretion at El Chamizal had been occupied prior to 1884 under color of American title. (See official map of El Paso, Tex., 1881, U. S. Countercase, Portfolio, Map No.

10; also act incorporating the city of El Paso, U. S. Countercase, p. 139, and Patents of the State of Texas and Minutes of the City Council of the City of El Paso, U S. Countercase, pp. 139–168.)

The Supreme Court of the United States, in the case of United States *v.* Arredondo, supra, says:

> That it has been very truly urged by the counsel of the defendant in error that it is the usage of all the civilized nations of the world, when territory is ceded, to stipulate for the property of its inhabitants. An article to secure this object, so deservedly held sacred in the view of policy as well as of justice and humanity, is always required and never refused.

And further in that case the court, in alluding to the treaty between the United States and Spain, concluded on the 27th of October, 1795, said:

> Had Spain considered herself as ceding territory, she could not have neglected a stipulation which every sentiment of justice and national honor would have demanded and which the United States could not have refused.

Under the fluvial boundary, which this commission has held the treaties of 1848 and 1853 created, a title had vested in the United States and the citizens thereof in all accretions to the Chamizal tract under the recognized principles of international law. If the language of the convention of 1884 recognized in Mexico or its citizens any right in any portion of such accretions, however formed, the United States divested itself and its citizens of rights which international law had given them and yet the United States did, if the opinion of the majority of this commission is correct, neglect "a stipulation which every sentiment of justice and national honor would have demanded, and which the United States [Mexico] could not have refused."

Vattel says (Law of Nations, Book I, chap. 2, sec. 17):

> The body of a nation can not then abandon a province, a town, or even a single individual who is a part of it unless compelled to it by necessity or indispensably obligated to it by the strongest reasons founded on the public safety.

The foregoing views are in entire accord with the opinion of the Mexican commissioner as expressed in the second paragraph of the dissenting opinion.

WHAT LAW GOVERNS?

The commissioner for the United States has been unable to discover, although he has made a careful study of the opinion of the majority of the commission, under what provision of the convention of 1884 it is conceived that Mexico can be entitled to any portion of the Chamizal tract, the formation of which may be ascribed to any character of erosion, whether slow and gradual or rapid and violent. Had the commissioner for the United States been able to expel from his mind and to disregard the language of the treaties of 1889 and 1905, had he been able to forget and disregard the construction which has been placed upon Article I of the convention of 1884 by the International Boundary Commission since its organization in 1893, and had he been wholly uninfluenced by the fact that counsel for Mexico as well as counsel for the United States were agreed that the convention of 1884 embraced but two classes of changes as hereinbefore set forth (Record, p. 608), he might have been able to concur with the majority of the commission that the degradation of the Mexican bank of the river at some uncertain points and at some uncertain times was not within the meaning of Article I of the treaty of 1884; but the commissioner for the United States does not believe that by any strength of the imagination or any elasticity of the law, any character of erosion and deposit can be brought within the meaning of Article II of that convention. Therefore, the result must have been the same; if the change which occurred at El Chamizal was not within the meaning of either Article I or II of the convention of 1884, then said convention becomes inapplicable and we must look to the principles of international law for the rule which is to govern our action. But it is admitted both in the language of the commission as embodied in the record of our hearing (Record, pp. 203, 300) as well as in the printed argument of counsel for Mexico (Mexican Argument, p. 31) that under the principles of international law the change in the course of the river due to erosion and deposit would carry the boundary line with it, no matter how rapid might be the degradation of one bank by erosion, provided only that the growth of the other bank was accomplished by gradual deposit of alluvium, and such the American commissioner conceives to be the undisputed evidence and the admitted facts of this case.

The precise language in which the learned agent of Mexico sets forth his position upon this point is so significant as to deserve quotation:

> In fact, the convention only occupied itself with two classes of alterations or changes of the bank and channel of the river; one, that originated by the slow and gradual erosion of one bank and the deposit of alluvium, and the other by the abandonment of an old bed and the opening of a new one. (Record, p. 203.)

In view of the foregoing the commissioner for the United States can not but regard it as unfortunate that the commisson should have indicated no desire to hear further argument on this point (as appears in the record of the hearing at pp. 608–614), where the commission indicated that it scarcely seemed desirable to pursue this point since counsel for both sides seemed agreed that the convention of 1884 embraced but two classes of changes, because he ventures to believe that counsel for the United States would have convinced the commission that it must assign the change at El Chamizal to the first alternative in Article I of the convention of 1884, or else disregard the convention of 1884 entirely and decide the case upon the principles of international law.

In the opinion of the presiding commissioner (Opinion, p. 33) reference has been made to the case of the City of St. Louis *v.* Rutz (138 U. S., 226), and it is stated that the facts in that case are very similar to those established by the evidence in the present case. But, with all respect, the American commissioner submits that while the rapid degradation of the east bank of the Mississippi River, as described in that case, is very similar to the erosion that is shown to have occurred at certain or rather uncertain points opposite El Chamizal, the vital facts in that case and the present case are very different. In that case the evidence disclosed a rapid degradation of the east bank of the river and the complete submergence for several years of that portion of plaintiff's surveys. Subsequently an island formed on the east side of the thread of the river and that island became joined by accretion to plaintiff's surveys. The court held that under the laws of Illinois the plaintiff owned in fee simple that portion of the river bed lying east of the thread of the stream and that when new land formed east of the thread of the stream it belonged to the former owner. The court makes very clear that the ground of its decision is that the holder of the Missouri title on the west bank could not own the land which thus appeared first by an island formation and subsequently by accretion thereto *east* of the thread of the stream.

An analogous case would have been presented here if after the river had invaded Mexican territory by rapid erosion, making for itself a bed 500 yards wide, as one witness testified it did (U. S. Case, App., p. 118), an island had subsequently arisen to the south of the thread of the stream. That island would have belonged to Mexico whether it subsequently became joined to the south bank or not, or even though it might have become joined by accretion after its formation to the north bank, but there is not a suggestion in the evidence that such a fact ever occurred. On the contrary, the evidence indisputably shows that the north bank did not even move south simultaneously with the destruction of the south bank but that it grew up in a long course of years by the slow and gradual deposit of alluvium.

The American commissioner is constrained to hold, therefore, that the majority of the commission have failed to apply to the case the express rules laid down by the convention of 1884; and by this failure have departed from the terms of the submission and invalidated the award.

A DEPARTURE FROM THE CONVENTION OF 1889.

In the opinion of the American commissioner this failure becomes the more manifest by reference to the terms of article 4 of the convention of 1889, to which, supplemented by the convention of 1910, this commission owes its life. By that article, the very law of its being, this commission when considering any alteration in the course of the river named, is confined "to decide whether it has occurred through avulsion or erosion, for the effects of articles 1 and 2 of the convention of November 12, 1884." The American commissioner conceives that this provision was not only declaratory and interpretative of the changes contemplated by the convention of 1884, but that said clause is jurisdictional in so far as the powers of this commission are concerned.

In the opinion of the American commissioner, the two Governments in the preamble of the Banco Treaty of 1905 again placed an authoritative interpretation upon the words "slow and gradual" in the convention of 1884.

In that treaty the two Governments after reciting articles 1 and 2 of the treaty of 1884, expressly declared that the changes whereby the so-called bancos had been formed were "owing to the slow and gradual erosion coupled with avulsion." That the erosive action thus referred to was and is far more rapid and violent than that which occurred in the Chamizal tract is unquestionable, but the presiding commissioner and the Mexican commissioner observe, with reference to the investigations undertaken by the International Boundary Commission upon which the banco treaty was based, that

> The report rendered by the commissioners to their respective Governments in no way discloses any facts tending to show the nature and extent of the erosive changes, and properly so, because that was not material to the question to be decided. It is true that, by making a minute examination of the plans accompanying the report, the actual extent of the erosive changes might have been ascertained, but there certainly was nothing in the question submitted to the Governments for solution to necessitate, or even to suggest, such an inquiry. (Opinion, p. 34.)

With all respect, it would seem that the question as to whether or not the changes which resulted in the banco formation were "slow and gradual" within the meaning of the treaty of 1884, was so "material to the question to be decided" that if those changes were not "slow and gradual" there would in most instances have been no bancos to eliminate. It is true that the commissioners did not think it necessary to state in figures the rate of erosion on each banco, but the rate of erosion was obtainable by a casual examination of the maps and reports if the plenipotentiaries were interested in knowing the rate. Having the information before them they were free to use it or not in framing their language, but no rule either of logic or justice is perceived that would relieve them or the contracting parties from being held to the accountability which binds all other men when they use language in a legal document to express ideas.

And again the American commissioner feels constrained to say that he can not understand the method of the interpretation which gives such emphasis to the words "slow and gradual" in Article I of the treaty of 1884 as to override not only the ordinary rules of international law and the uniform construction placed upon the treaty by the International Boundary Commission since its organization and by agents and counsel for both parties before this commission, but also what appears to him to be the plain and unmistakable intent of Article II to confine all "other changes" to the cutting of a new bed or the deepening of an existing channel, while the same words in the Banco Treaty of 1905, although entirely consistent with the purpose and scope of that treaty, are apparently deemed negligible and unimportant.

The failure of the presiding commissioner to regard the Banco Treaty of 1905 as placing an authoritative interpretation upon the words "slow and gradual" in the treaty of 1884, appears all the more strange to the American commissioner in view of the fact that the presiding commissioner, earlier in his opinion, in his discussion of the retroactivity of the treaty of 1884, attaches great weight to this same treaty of 1905 because it provides for the elimination from the treaty of 1884 of bancos formed prior to 1884. The presiding commissioner has no difficulty in holding the governing minds of the two countries responsible for the language which they used in the treaty of 1905 so far as it construes the treaty of 1884 retroactively. He says:

> This recognition of the retrospective application of the convention of 1884 is not that of subordinates, but of the Governments themselves, which expressly adopted the views of the commissioners as to the application of the treaty of 1884 and as to the desirability of taking such cases, both past and future, out of the convention and substituting new provisions. (Opinion, p. 24.)

It is difficult to see why the plenipotentiaries should be charged with notice of the date at which these bancos were cut off and not of the rate at which they were formed.

It should furthermore be remembered that in his opinion in Chamizal case No. 4 in 1896 the American commissioner called attention to the rapidity of the erosion which has been recognized as slow and gradual in the case of the bancos and gave the figures of erosion in the case of one banco, the Banco de Camargo, 87 meters a year, figures which exceed any erosion which could have taken place in the Chamizal tract, even on an assumption most favorable to the Mexican contention. In discussing the reports rendered by the commissioners to their respective Governments in 1896, in which the American commissioner asserted that if the erosion in El Chamizal was not slow and gradual, then *a*

fortiori, the erosion which had formed the bancos in the lower part of the river could not be slow and gradual,[1] the presiding commissioner suggests that that report "was counteracted by the reply of the Mexican commissioner, who argues that there was no similarity between the two cases," and deduces therefrom the conclusion that "under these circumstances it is reasonable to conclude that the Mexican Government adopted the view of their commissioner" (Opinion, pp. 34, 35). It is difficult to accept this conclusion in view of the fact that in drafting the treaty of 1905 the Mexican Government brushed aside the distinction sought to be established by its commissioner and applied the provisions of the banco treaty to the Rio Grande in the upper as well as in the lower division of the river "throughout that part of the Rio Grande * * * which serves as a boundary between the two nations." (U. S. Case, App., p. 87.)

The irresistible logic with which the presiding commissioner drives home the conclusion that the ambiguity, if any, in the convention of 1884, in so far as the retroactivity of the convention is concerned, is removed by the practical construction placed upon that treaty by the contracting parties as well as by the language of the treaties of 1889 and 1905, compels the admiration and approval of the American commissioner, but he can not expel from his mind that the conclusion from the same course of practical construction and subsequent treaty interpretation applies with equal force to the ambiguity, if any, of the convention of 1884 when dealing with erosion and avulsion.

The words "slow and gradual" are relative terms. The treaty of 1884 was drafted specifically for the Rio Grande, and its changes at the point in question have been slow and gradual compared to other changes both in the upper and lower river or when compared with the progress of a snail.

AWARD VOID FOR UNCERTAINTY.

The award of the presiding commissioner and the Mexican commissioner, constituting a majority of the commission, is to the effect that the—

> international title to the portion of the Chamizal tract lying between the middle of the bed of the Rio Grande, as surveyed by Emory and Salazar in 1852, and the middle of the bed of the said river as it existed before the flood of 1864, is in the United States of America, and the international title to the balance of the said Chamizal tract is in the United States of Mexico. (Opinion, p. 36.)

The American commissioner is of opinion that this award is void for the further reason that it is equivocal and uncertain in its terms and impossible of accomplishment. The presiding commissioner and the Mexican commissioner "conceive that it is not within their province to relocate that line [the line of 1864], inasmuch as the parties have offered no evidence to enable the commissioners to do so." (Opinion, p. 36.) It is submitted, with all respect, that the fact that the parties have offered no evidence of the location of the line of 1864 is suggestive of the fact that it was not within the contemplation of the parties that the tract should be divided. Perhaps the reason that agent and counsel on either side, even after the suggestion of the court as to the possibility of dividing the tract along the channel of 1864, did not ask leave to offer evidence for the purpose of relocating this channel was because they were and are well aware that it would be as impossible to locate the channel of the Rio Grande in the Chamizal tract in 1864 as to relocate the Garden of Eden or the lost Continent of Atlantis.

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[1] The presiding commissioner has fallen into error (Opinion, p. 34) in suggesting that the American commissioner in 1896 compared the erosion at Chamizal to that which formed the bancos only, whereas the American commissioner in his opinion was referring to the erosion at every bend in the river throughout the 800 miles where it flowed through alluvial formation.

The following are the words used by him:

"In the opinion of the United States commissioner, if the changes at El Chamizal have not been 'slow and gradual' by erosion and deposit within the meaning of Article I of the treaty of 1884, there will never be such a one found in all the 800 miles where the Rio Grande with alluvial banks constitutes the boundary, and the object of the treaty will be lost to both Governments, as it will be meaningless and useless, and the boundary will perforce be through all these 800 miles continuously that laid down in 1852, having literally no points in common with the present river, save in its many hundred intersections with the river, and to restore and establish this boundary will be the incessant work of large parties for years, entailing hundreds of thousands of dollars in expense to each Government and uniformly dividing the lands between the nations and individual owners that are now, under the supposition that for the past forty years the changes have been gradual and the river accepted generally as the boundary, under the same authority and ownership; for it must be remembered that the river in the alluvial lands, which constitute 800 miles, has nowhere to-day the same location it had in 1852." (Proceedings of International Boundary Commission, vol. 1, p. 93.)

In concluding this dissenting opinion it is impossible to refrain from pointing out the unfortunate results which this decision would have in the contingency that the two countries should attempt to follow it in interpreting the treaty of 1884 in other cases.

The American commissioner does not believe that it is given to human understanding to measure for any practical use when erosion ceases to be slow and gradual and becomes sudden and violent, but even if this difficulty could be surmounted, the practical application of the interpretation could not be viewed in any other light than as calamitous to both nations. Because, as is manifest from the record in this case, all the land on both sides of the river from the Bosque de Cordoba, which adjoins the Chamizal tract, to the Gulf of Mexico (excepting the canyon region) has been traversed by the river since 1852 in its unending lateral movement, and the mass, if not all, of that land is the product of similar erosion to that which occurred at El Chamizal, and by the new interpretation which is now placed upon the convention of 1884 by the majority of this commission not only is the entire boundary thrown into well-nigh inextricable confusion, but the very treaty itself is subjected to an interpretation that makes its application impossible in practice in all cases where an erosive movement is in question.

The convention of 1910 sets forth that the United States and Mexico "desiring to terminate * * * the differences which have arisen between the two countries," have "determined to refer these differences" to this commission enlarged for this purpose. The present decision terminates nothing; settles nothing. It is simply an invitation for international litigation. It breathes the spirit of unconscious but nevertheless unauthorized compromise rather than of judicial determination.

(Signed) ANSON MILLS.

Individual opinion of the commissioner of Mexico.

[Translation.]

The Mexican commissioner respectfully begs to differ from the opinion of his learned colleagues in definitely judging the subject of the Chamizal in the matter of the fixedness and invariability of the boundary line of 1852, and also in regard to the retrospective application of the convention of 1884, as it does not appear to him that the findings of the majority on both points are supported by the record and the arguments that figure in the proceedings.

The agent of the Government of Mexico has left established a fundamental axiom in right—that the alluvium should be governed and qualified by the laws in force at the time in which it commenced to form. In the depth of this principle is enveloped the universal maxim of the irretroactivity of the laws, unless it is stipulated expressly in them, or that at the time the phenomena in question took place there should have been no provisions to cover it.

Neither of the two exceptions cited occur in the case of the Chamizal, as in 1852 there existed a perfectly defined law to apply—the treaty of Guadalupe. The convention of 1884 evidently does not contain any direct and precise stipulation as to its retrospective power.

My first proposition, according to this, is that the treaty of 1848 stipulated in a clear and precise manner a fixed or "limited" line.

The agent of Mexico expounds in methodical and sufficient form the classical division, universally adopted, of property in two large categories: "Arcifinious" property and "limited" property. The characteristic of the former is to be determined in one of its boundaries by natural geographical "accidents," such as mountain ranges, rivers, etc., which by their manifest discernibility on the ground constitute within themselves limited lines, which in order to designate perfectly it is sufficient to mention. In order that the property may be in the second category, evidently it is sufficient that it does not pertain to the first, although further than that it is indicated characteristically as that whose boundaries in all senses are marked by means of definite and permanent lines or signs.

Now, it has remained undenied in this judgment that the treaty of 1848 directed the general setting of landmarks on the dividing line between Mexico and the United States, and the marking of these landmarks on precise and authentic plans, as well as a religious conservation in the future of the line so fixed, and it is also shown in the record, without discussion on the part of America, that the commissioners charged with executing this convention, com-

plying with the letter of their instructions, agreed, ordered, and carried to a conclusion the erection of permanent monuments, identical in character to those of the nonfluvial line, along the length of the fluvial, and that this operation was known to the two Governments and was not disapproved by them, to which they gave account of all their acts.

In the matter of the Chamizal, there is data to prove that at least two of these monuments (of iron) were placed; one on the right bank of the river, in what is now Cuidad Juarez, and another on the left, in Magoffinsville, now part of El Paso. That these monuments were properly "mojoneras" (landmarks) and not signs of topographical reference is undeniable, for the reason that they did not connect topographically with the lines of the survey. Their sole object was to "show the limits of both Republics," and their erection would have been absolutely unnecessary in case of an arcifinious boundary.

It is the opinion of the majority of the commissioners that the declaration in the treaty of 1853 (Article I) that the limits between both countries should follow the middle of the Rio Bravo, *as stipulated in that of 1848*, is the best proof that the former treaty created an arcifinious and not a fixed line; because, it is said, if the line had been fixed before 1853, it would not have been affirmed then—both Governments knowing, as they did know, that the river had changed its course between the former and the latter treaty—that *the center of the bed* would continue being the point of separation between the eminent domains of the two nations. The commissioner for Mexico feels its necessary to state that he fails to see the force of the argument, because in his conception the treaty of 1853 had three objects: First, to establish a boundary line in the territory between the Rivers Bravo and Colorado; second, to finish the establishment, where it had not already been concluded, of that portion of the line of 1848 not affected by the Gadsden Treaty; third, and very important, *to ratify the portions already established* of the line of 1848; and the new commissioners, to whom was entrusted the execution of Article I of the agreement, were given entire and final powers for each and every one of the three parts of their trust. Therefore, when in 1857 they jointly delivered to their Governments as result of their labors a collection of plans in which was clearly shown the position of the dividing line, according to the last treaty, that line (it might have been run in 1849, in 1852, or in any other year) remained adopted as the sole and invariable line of separation between the two Republics.

In the particular matter referred to the judgment of this arbitration court, the river has varied after the survey of 1852 and before the signing of the convention of La Mesilla, and the new commissioners knew it perfectly. What should they have done had they believed the treaty of 1853 considered the river as arcifinious? Undoubtedly resurveyed map No. 29 in order to clearly mark out upon it the new and exact position of the dividing line; but as they did not so understand it, but knew that the line of 1852 ought to be fixed, and that the new line to be established after 1853 not having been already established before, would also have to be fixed, they comprehended that, assuming that in 1852 the position of said line in this valley had been finally decided and marked on official maps adopted by both commissions, the treaty of 1853 imposed upon them the obligation of ratifying it, and thus they did, signing in 1855 the final sheet No. 29, notwithstanding the fact that the river marked on it did not then correspond with the true position which its course followed in the valley in 1855. This is the reason why the argument of his colleagues works in an opposite sense in the mind of the Mexican commissioner than [sic] it does in theirs.

The opinion of the majority of the honorable commissioners is that the subsequent acts of the two Governments show: On the part of the United States, an invariable judgment in favor of the interpretation of the treaties of 1848 and 1853 as establishing an arcifinious limit in the fluvial portion of the boundary common to them; on the part of Mexico a lack of determination between the idea of the fixed line and a fluvial arcifinious limit.

Admitting, as the Mexican commissioner clearly does, the doctrine of this court that isolated expressions of officials of one or the other Governments do not in any manner constitute an international obligation binding upon the nations whom they serve respectively, it is right to pass over the diverse opinions emitted by Messrs. Lerdo de Tejada, Frelinghuysen, etc., and look exclusively to the correspondence and negotiations sanctioned internationally and recognized by both Governments, in order to ascertain their attitudes in the matters under discussion, and even then in only their vital points and not in their minor or incidental points.

It is not shown in the record that there was correspondence or negotiations of that character touching the interpretations of the treaties of 1848 and 1853 but on three occasions: In 1875 between Mr. Mariscal and Mr. Cadwalader; in 1884, between Mr. Romero and Mr. Frelinghuysen, in connection with the island of Morteritos; and in the same year and between the same last-named persons, concerning the preliminaries of the convention of 1884.

In 1875 the allusion to the fixed line, in the past, appears evident by the terms of Article II, both of the draft for a convention presented by Mr. Mariscal to Mr. Cadwalader on March 25 and a second draft dated December 2 of that year. In both reference is unmistakably made to the dividing line astronomically fixed by the boundary commission of both Governments in 1852, which runs in the middle of the current of the rivers, according to their course at the time of their survey.

In regard to the case of Morteritos, the terms of the decision of the majority of this tribunal relieve the Mexican commissioner of the necessity of insisting here that the uniform attitude then shown by the Mexican Government was in the sense of the fixed line, inasmuch as it is thus recognized in such document.

Lastly, in the negotiations of the convention of 1884, a reading of the instructions which guided Mr. Romero, and of his correspondence with the American Department of State, does not leave room for doubt as to the position adopted by Mexico in regard to the nature of the boundary line from its original demarkation until then—that it was fixed and invariable and constituted to Mexico in her northern frontier an "ager limitatus," as these properties are understood by civil and international law.

It being established that until 1884 Mexico considered the line of 1852 as fixed, is it admissible that in that year she would negotiate a treaty converting it into an arcifinious boundary with retroactive effect? If the declarations of the Mexican negotiator, Don Matias Romero, are not sufficient to destroy all doubt in this respect, the following consideration would be more than sufficient: that Mexico could not in any manner have adopted a new boundary—supposing that the river had then ceased to be the boundary and was again taken as such—without protecting or ceding conveniently or by means of an express clause free from confusion, the rights of individuals and of the Mexican nation, to the lands embraced between the fixed line which was abandoned and the new fluvial line then adopted. As no such clause existed in the convention of 1884, in view of the fact that all the language of it refers indisputably to the future; and considering the nature of the negotiations that preceded it, the Mexican commissioner feels himself unable to accept the possible retroactivity of that convention.

Then, the opinion of the majority of the honorable commissioners is that the application which both Governments made of the convention of 1884 to the case of San Elizario and the 58 original bancos of the lower Bravo is another proof that the principle of the retroactivity had firm connection in the mind of the Mexican Government in respect to the application of that convenion. From such an opinion also dissents, and he believes with good reason, the Mexican commissioner.

In the first place, there is no reason to infer from the fact that the Mexican commissioner in 1894 presented the commission with the case of San Elizario, that the Government of Mexico, by this act, knowingly put under the jurisdiction of the treaty of 1884 the changes which occurred in the Bravo since 1857. The only thing that the cited procedure indicates is that Mexico submitted *that question* to the jurisdiction of the boundary commission established by the treaty of 1889. Now, the powers of such commission were not limited in any manner to the application of the principles of 1884, but they covered and they were declared "exclusive," the resolution of *all the questions or difficulties that in the future* might arise between the two countries and *in which affected the position of the dividing line*, subject to the approval of both Governments. In San Elizario, without doubt, it was endeavored to ascertain if that so-called "island" pertained to Mexico or to the United States, and it certainly was the commission who had to decide it, whether the theory of a fixed or of an arcifinious line in regard to that ground was in force. The case was discussed, then, in quality of question solely, and not of erosive or avulsive change. It is certain that the commission decided it, taking into consideration certain very slight alluvial changes, occurring between 1852 and 1857; but taking the terms of their judgment, and considering that the essential of it was the definition of the nationality of the ground, *that was that* which was asked of the commissioners, it is not to be believed that the Governments paid any attention

to the insignificant divergences, shown by the consulting engineers between the courses of the river, as given by Salazar, Emory, and the survey of 1890, because such divergences might very well appear to be due to the imperfection of the methods employed by one or the other of the engineers, notwithstanding what the later commission said to the contrary.

Now, in regard to the resolutions adopted by the two Governments, in the matter of the bancos in the lower River Bravo, it is sufficient to destroy the inference that is alleged to be deduced as to the retroactivity of the convention of 1884, to say that the treaty in virtue of which it has been possible to approve said resolutions, *expressly adopted as retroactive* certain principles which called for "elimination" of those bancos *in all those parts of the international dividing line* which are constituted by the centers of the beds of the Bravo and Colorado Rivers. This condition of the internationality of the river remained plainly decided by that treaty in regard to the stretch of the Bravo embraced between its mouth and the confluence of the San Juan, due to the explicit adoption of the central line of its course of 1897 as boundary between the two countries and to the declaration that in future that boundary would follow *the deepest channel*, which was equivalent to converting into arcifinious this stretch of the Bravo. In regard to the rest of this river and to the Colorado, the principle of elimination will also be applicable with retroactive force in all those parts in which their course may be international, and in no other, unless in the future some arrangement may be made in virtue of which in the whole course of the Bravo and Colorado the fixed boundary of 1852 may be abandoned, and, as was done in the lower river, the real watercourse adopted as the new international boundary. In any event, the retroactivity that has resulted or might result from this should be attributed solely and directly to the express and clear clauses of the convention of 1905, that adopt it as a rule, but never to the power, direct or indirect, of that of 1884.

Such are the ideas of the Mexican commissioner on the fixedness of the dividing line of 1852, and the irretroactivity of the convention of 1884; but as he has been defeated in both points by the majority of the court, and the latter has left established that as a result of the sequel of the case, the only principles which should govern are those contained in that convention of 1884, this commissioner believed it to be his duty to amply express his opinion from the new point of view and had the fortune to have the presiding commissioner agree with him in regard to the matter in which the convention referred to should be applied to the case, which has permitted the court to dictate by majority a final sentence, that would otherwise have been impossible, since the attitude of the commissioner of the United States in regard to such application diverges diametrically from that of the presiding commissioner.

This opinion and the context of the sentence in the points agreed to, leave sufficiently and totally explained the position of the commissioner of Mexico in the present arbitral judgment.

(Signed) F. B. PUGA.

Minutes of meeting of the Joint Commission, June 15, 1911.

EL PASO, TEX., *June 15, 1911.*

The joint commission met at the Sheldon Hotel, at 10 o'clock a. m. (meeting being held in Commissioner Mills' room owing to his illness). Present, the commissioners, secretaries, agent of the United States, and assistant agent of Mexico.

The presiding commissioner stated that the Chamizal case submitted to the commission for decision having been discussed at length by the commissioners an award had been made by a majority of their votes.

Then, the members of the commission proceeded to sign the award, and the journal of the proceedings in the case, and the Mexican and American commissioner submitted dissenting opinions, all of which are made a part of this journal.

A copy of the award was delivered to the agent of the United States and the assistant agent of Mexico.

The agent of the United States asked permission to make the following statement:

May it please the commission: Although I have not had opportunity to consult with my Government and must therefore act upon my own motion, subject to the consideration and action of my Government, I deem it my duty, in order to safeguard the rights of the United States in the premises, with all deference, to make suggestion of protest against the decision and award which has just been rendered, upon the following grounds:

1. Because it departs from the terms of submission in the following particulars:

a. Because in dividing the Chamizal tract it assumes to decide a question not submitted to the commission by the convention of 1910 and a question the commission was not asked to decide by either party at any stage of the proceedings;

b. Because it fails to apply the standard prescribed by the treaty of 1884;

c. Because it applied to the determination of the issue of erosion or avulsion a ruling or principle not authorized by the terms of the submission or by the principles of international law or embraced in any of the treaties or conventions existing between the United States and Mexico;

d. Because it departs from the jurisdictional provision of the treaty of 1889 creating the International Boundary Commission.

2. Because the award is uncertain and indefinite in its terms, incapable of being made certain, and impossible of application.

3. Because the award fails to "state the reasons upon which it is based" in this that it fails to state specifically whether the alleged rapid and violent erosion by which it finds a portion of the Chamizal tract was formed comes within the terms of the treaty of 1884 or is governed by the principles of international law, and fails to state reasons for the inferential finding that it comes within the provisions of the treaty of 1884, in spite of the fact that these questions were repeatedly argued by agent and counsel for the United States.

4. Because of essential error of law and fact.

The Mexican commissioner expressed the thanks of his Government for the courtesy of the Government of the United States in permitting the use of the Federal court room for the meeting of the joint commission.

The special duties of the commission under the treaty of June 24, 1910, having been completed, the presiding commissioner declared the commission adjourned without day.

E. LAFLEUR.
ANSON MILLS.
F. B. PUGA.

M. M. VELARDE,
Secretario.
WILBUR KEBLINGER,
Secretary.

File No. 711.1215/350a.

The Department of State to the Mexican Embassy.

The recent arbitration between the United States and Mexico, under the convention of June 24, 1910, with reference to the international title to the Chamizal tract has, in the opinion of the United States, failed to meet the legitimate expectations of the two nations concerned.

For the reasons set forth by the American commissioner in his dissenting opinion, and by the American agent in his suggestion of protest, the United States does not accept this award as valid or binding.

But even on the assumption that the award rendered by the presiding commissioner is valid and binding, it has confessedly failed to accomplish the object which the high contracting parties had in view, namely "to terminate * * * the differences which have arisen * * * as to the international title to the Chamizal tract," inasmuch as it makes no attempt to locate the boundary line at the tract in dispute, and its effect is to remit once more this all-important matter to the two parties for settlement.

It should be added in passing that the American commissioner advises the Department of State that even if the two Governments should agree again to refer the case to an international commission for the purpose of ascertaining the whereabouts of the boundary line suggested by the presiding commissioner, the river channel before the flood of 1864, it would be impossible to relocate that line, so that the whole matter would once more revert for diplomatic settlement.

Furthermore (a matter of perhaps even greater importance) the presiding commissioner—in disregarding the construction placed by

both parties upon the convention of 1884, that this convention treats of only two classes of river changes, namely "through the slow and gradual erosion and deposit of alluvium" (art. 1) or "by the cutting of a new bed or, where there is more than one channel, by the deepening of another channel" (art. 2), and in his implied holding that the treaty of 1884 embraces within its purview a tertium quid, namely "violent" erosion, which is to be assimilated in its legal effect to the cutting of a new bed—places a wholly impracticable construction upon this treaty. If the two Governments should accept this interpretation it would not only throw the international boundary line along the Rio Grande into inextricable confusion and cast doubt upon the private title of well nigh every foot of land on both sides of the river throughout "all the 800 miles where the Rio Grande with alluvial banks constitutes the boundary," but would fasten upon the boundary treaties themselves an interpretation which would make their application impossible in practice in all cases where an erosive movement is in question, at least until some conventional definition of "violent" erosion had been arrived at.

It would seem therefore that even if the decision of the International Boundary Commission in the Chamizal case were accepted as valid and binding it would not terminate the differences which it was meant to terminate, but would require further diplomatic negotiations to render it possible of application either at the Chamizal tract or elsewhere.

The Government of the United States although profoundly convinced of the invalidity of the award, is loath to press this view so long as it may properly be avoided, and since it seems evident that in any event further diplomatic negotiations and a further convention are inevitable, it appears to the Government of the United States that it would be for the interest of both parties for the two Governments, without discussing the question of the validity of the award or the possibility of scientifically relocating the channel of 1864, to endeavor to settle their differences through a new convention which should avoid as far as possible all contentious matters and look toward a settlement upon a basis of mutual accommodation and convenience.

The Government of the United States accordingly suggests the negotiation of a new boundary convention upon the following basis:

1. A preamble reciting the pertinent articles of the present boundary treaties and conventions between the two Governments.

2. A recital of certain general differences as to the interpretation of these treaties as to the international title to the Chamizal tract in particular and as to the validity of the recent award, and a statement of the desire on the part of both Governments to settle these differences in an amicable way.

3. Certain declaratory interpretations of the boundary treaties and conventions, particularly as to the following points:

(*a*) The treaties of 1848 and 1853 establish a fluvial or arcifinious boundary.

(*b*) The treaty of 1884 is retroactive in its scope.

(*c*) Two classes of changes only are contemplated in the treaty of 1884, i. e., avulsion and erosion, and these classes embrace all the changes which have taken place on the Rio Grande and Colorado

Rivers, since by virtue of the treaties of 1848 and 1853 certain parts of the dividing line between the two countries have followed the middle of the channel of the Rio Grande and the Rio Colorado, as well as changes which may take place in the future.

(*d*) Provisions relating to the adjustment of the international boundary line at El Paso and Juárez, through mutual arrangement by a declaratory interpretation of the boundary treaties and the elimination of the Horcon bar above Brownsville.

(*e*) Possible provision for the indemnification of private individuals who may be thought by one or the other Government to be damaged through the adoption of the foregoing provisions.

The ever present possibility of friction between the citizens of the two countries on the tract in dispute renders it highly important that the long-standing controversy as to the international boundary line at El Paso and Juárez be settled as speedily as possible. If the Government of Mexico is favorably disposed toward the settlement of pending boundary questions through the negotiation of a declaratory treaty along the general lines indicated in this memorandum, the Department of State ventures to suggest that the details be taken up in personal negotiations to be begun in this city as soon as possible. The Department of State is prepared to give special and continuous attention to these negotiations, in an earnest endeavor to reach an agreement which will enable a treaty to be signed within the next few weeks.

DEPARTMENT OF STATE,
Washington, August 24, 1911.

File No. 711.1215/357.

The American Chargé d'Affaires to the Secretary of State.

No. 882.] AMERICAN EMBASSY,
Mexico, September 1, 1911.

SIR: I have the honor to refer to the Department's instruction No. 499 of August 25,[1] relative to the Chamizal dispute, with which was inclosed for my information copy of the Department's aide mémoire of August 24 and a memorandum of a conversation between the Assistant Secretary of State and the Mexican ambassador at the time when the aide mémoire was handed by the former to the latter.

In compliance with the Department's instruction to familiarize myself with these documents and then to energetically and informally take up with the Mexican Government the matter of securing its consideration of the proposals of the United States, I have the honor to report, as I telegraphed the Department to-day, that I had an extended interview with President de la Barra, who it will be remembered has reserved for himself the direction of Mexico's foreign affairs, at noon to-day and urged upon him the desirability of considering the proposals of the United States as set forth in the Department's aide mémoire above mentioned.

The President replied to my initial remarks by saying that as the arbitration award had been given and was a matter of fact, he

[1] Not printed.

felt that the parties to the arbitration should abide by the results, and that this was especially true in the case of Mexico, as the award since it is favorable to her gives her concrete rights, and that he would therefore lay himself open to the reproach on the part of the Mexican people of having surrendered their advantages and of having violated the principle of arbitration to which both Mexico and the United States are committed if he ignored the fact of the award and undertook to enter upon a discussion of means for the settlement of the dispute in another manner.

To this I replied that it was not the intention of the Government of the United States that Mexico should give up or lose anything gained; that the matter of her advantages was one which would of course always be given due consideration, but that what was now wanted was the assent of the Mexican Government to consider and to enter upon a discussion of the points involved in the dispute with a view to avoiding future friction, troublesome discussion, and vexatious delays—all of which it seemed evident might be expected in the course of the future on account of the unsatisfactory condition in which the award, as far as the United States was concerned, had left the original controversy. I added that if our two nations simply left the present award out of consideration and could between themselves arrive at an arrangement by which the dispute could be finally settled to the satisfaction of both Mexico and the United States, such a procedure, by providing a better solution than the award, could hardly be considered to vitiate the principle of arbitration which the United States had no desire either to detract from or to weaken.

Continuing his observations, the President said that as his term of office was soon to come to an end and as he did not wish to embarrass the incoming administration by committing it to any certain line of conduct where it should be left free to determine its own course, he regarded this as another reason for not entertaining our proposals.

I here remarked that I felt certain that the new administration would admit that there was no one in Mexico more competent than he to deal with this question, and especially so as he had for some time been intimately connected with it, and that since his patriotism was undoubted he would hardly be accused of doing anything to his country's disadvantage; that it would therefore seem especially beneficial for the matter of the dispute to be disposed of during his incumbency, and that an early disposition of it would be all the more advantageous. I therefore asked the President what in his opinion could be done. He replied that, in spite of the conviction of the American commissioner, as stated on page 2 of the Department's aide mémoire—which I endeavored to have him accept as evidence enough of the nonfeasibility of carrying out the award, as it would probably establish a precedent in the matter of fixing river boundaries which it would be found impossible to abide by—it would in his opinion be necessary to endeavor to trace the channel of the river as it was in 1864, and to this end to appoint an international commission to carry out this provision of the award. To accomplish this he is disposed to work with all speed, and said to me that should the commission find it impossible to determine positively the course followed by the river in 1864 he would then be willing to at once open diplo-

matic negotiations for the purpose of agreeing upon bases for a final settlement of the dispute.

I asked the President at this point whether he meant that he would then be willing to consider our proposals as set forth in the aide mémoire, and to enter upon a discussion of bases for a final settlement upon a foundation of mutual accommodation and convenience; to which he replied that he could say nothing more than that he would be willing to enter upon diplomatic negotiations for arriving at some plan of settlement.

I infer from the foregoing that the President's position as regards our proposals amounts to this, namely, that he feels he can not under the circumstances accept the opinion of the American commissioner and of the American agent that the award is incapable of execution and act accordingly, but that should the international commission find the course of the river in 1864 to be undiscoverable and thus prove the correctness of the position taken by the American commissioner and the American agent, he would then be free to go much further in meeting our wishes.

The President considers the appointment of an international commission and an effort to carry out the award as an indispensable preliminary to any consideration of our present proposals, and although I said everything I properly could to make him see the advisability of leaving the award in abeyance and in proceeding with a rapid practical discussion of the matter, I was unable to make him change his mind. He then said that the fact of the award having been given left Mexico no option but to endeavor to put its findings into effect. He admitted, however, the advantages to be gained through the negotiations of a declaratory treaty, and told me in confidence that once when in Washington at a conference at the Department of State, at which Mr. Knox, Mr. Huntington Wilson, Mr. Dennis, Mr. Clark, and others were present, he had even proposed such a solution in lieu of arbitration and had predicted just about the state of affairs that has arisen, but that at that time arbitration had been insisted upon. I observed to the President that if an interpretative and declaratory treaty was a good thing then, I could not see why it should be any less desirable now when the award would seem to have left the dispute no nearer a final solution, and that if he had once favored such a treaty he must be more clearly aware than anyone of its great advantages. The President's rejoinder was that the award had placed Mexico in a different position and changed the aspect of affairs; that under the award Mexico now has rights she can not surrender (unless most fully compensated therefor), whereas before, when nothing had been decided, she had none.

In bringing our interview to a close the President declared that he would be most happy, in case his suggestions are accepted, to see the Chamizal dispute definitely settled before the end of his term of office; that if his suggestions are accepted he will do everything possible to expedite the appointment of the Mexican commissioners and the final disposal of the case. He reiterated finally the friendly disposition of the Mexican Government and its desire to facilitate a solution of the difficulty in every proper way.

I have [etc.],

FRED MORRIS DEARING.

File No. 711.1215/365.

The Mexican Embassy to the Department of State.

No. 345.]

[Memorandum—Translation.]

The embassy of Mexico informs the Department of State that in view of the suggestions made by the Assistant Secretary of State at the interview of the 2d instant, it transmitted to the department of foreign relations the wishes of the American Government respecting the Chamizal arbitration and that it has been told in reply that the Government of Mexico is of opinion that inasmuch as the matter is finally adjudicated by award nothing remains but to carry out duly the said decision by means of such arrangement as may be made to run the dividing line in accordance with the sentence; but if in the practical application of the points determined by the umpire truly insuperable difficulties should be met, the Government of Mexico will not object to entering upon new arrangements to overcome such difficulties in friendly accord with the Government of the United States.

MEXICAN EMBASSY,
Washington, September 12, 1911.

File No. 711.1215/357.

The Acting Secretary of State to the American Ambassador.

No. 544.] DEPARTMENT OF STATE,
Washington, September 18, 1911.

SIR: The Department has received Mr. Dearing's No. 882, of the 1st instant, communicating to the Department the substance of his interview with President de la Barra in regard to the Chamizal controversy.

There is enclosed for your information a memorandum of a conversation between the Acting Secretary of State and the ambassador of Mexico, on September 2, 1911,[1] with an item given to the press attached, and you are referred to the Department's telegram of September 2, 1911,[1] to the embassy at Mexico City in which the Department expressed the opinion "that any attempt to relocate the line of 1864 would not only prove nugatory but would be most unfortunate in that it would be almost certain to result in seriously embittering the strained conditions at El Paso and Juárez."

In order that the embassy may be fully advised in case the possibility of relocating the line of 1864 should again come up for discussion, you are informed that, so far as the Department is aware, any attempt to relocate the line of 1864 would necessarily involve going into the parole evidence of alleged old inhabitants. This would lead, in the opinion of the Department, to a questioning of the veracity of the witnesses on both sides, and thereby would not only tend to embitter the local situation but might result in exchanges which might even tend to disturb the friendly relations between the two Governments.

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[1] Not printed.

In addition to the Department's profound conviction that the recent award is absolutely invalid, and that it would be entirely impossible to locate the line of 1864, the Department for the reasons stated would regard any attempt to locate the line as highly unfortunate on account of the foregoing considerations.

I am, etc.,

HUNTINGTON WILSON.

File No. 711.1215/365.

The Department of State to the Mexican Embassy.

[Memorandum.]

The Department of State has the honor to acknowledge the receipt of the memorandum of the Embassy of Mexico, of the 12th ultimo, in regard to the Chamizal case, and begs to say in reply that, as is pointed out in the beginning of the aide mémoire handed to the ambassador of Mexico by the Acting Secretary of State on August 25 [24], last, the United States, for the weighty reasons set forth by the American commissioner in his dissenting opinion and by the American agent in his suggestion of protest, is unable to perceive how the award can be considered valid or binding.

By reference to the opinion of the American commissioner and the protest of the American agent, it will be observed that the objections to the award stated by them go to the validity of the award itself, and not merely to the practicability of carrying it out.

It was however furthermore pointed out in the Department's aide mémoire that, even on the assumption that the award rendered by the presiding commissioner is valid and binding, it is in the opinion of this Government impossible to carry it into effect at the Chamizal tract, and impracticable successfully to apply certain principles upon which it is based elsewhere along the fluvial boundary.

Under these circumstances the Department remarked, in its aide mémoire, that—

since it seems evident that in any event further diplomatic negotiations and a further convention are inevitable, it appears to the Government of the United States that it would be for the interest of both parties for the two Governments, without discussing the question of the validity of the award or the possibility of scientifically relocating the channel of 1864, to endeavor to settle their difference through a new convention which should avoid as far as possible all contentious matters and look toward a settlement upon a basis of mutual accommodation and convenience.

To this suggestion the embassy's memorandum of September 12 makes reply:

That the Government of Mexico is of opinion that inasmuch as the matter is finally adjudicated by award, nothing remains but to carry out duly the said decision by means of such arrangement as may be made to run the dividing line in accordance with the sentence; but if in the practical application of the points determined by the umpire truly insuperable difficulties should be met, the Government of Mexico will not object to entering upon new arrangements to overcome such difficulties in friendly accord with the Government of the United States.

It appears to the Department that in making this proposal, which in the first instance is concerned solely with the ascertainment of the possibility of relocating the channel of 1864, the Mexican Government has not only omitted to state its views as to the practicability of applying the test of the so-called "rapid and violent erosion" to other cases arising along the Rio Grande, but has failed to take into account the fundamental difficulty which confronts the United States *in limine*, namely the consideration that it does not recognize the validity of the award and that the acceptance of the Mexican proposition, even if subject to no other observation, might be deemed to amount to a tacit recognition of its validity.

The Government of the United States in its aide mémoire of August 24 did not ask the Government of Mexico to admit the invalidity of the recent award or the impossibility of relocating the channel of 1864. It only proposed that these contentious matters be held in abeyance while the two Governments worked out through friendly negotiations a practical solution of their practical difficulties.

In the opinion of the Government of the United States the present Mexican proposal is unacceptable in that it asks the United States, as a preliminary to negotiations, to yield upon one of the fundamental questions in dispute.

This Department can not but hope that the Mexican foreign office will reexamine the questions under discussion in the light of the considerations suggested in this memorandum, to the end that the two Governments, without prejudice to the position of either with respect to the validity of the award, may reach a practical solution alike satisfactory and honorable to both countries.

DEPARTMENT OF STATE,
Washington, October 6, 1911.

NOTE.—Owing to the disturbed conditions existing in Mexico no definite action was taken for the settlement of the Chamizal dispute, and the case remains in statu quo.

IMPRISONMENT OF EDWARD M. BLATT AND LAWRENCE F. CONVERSE IN MEXICO.

File No. 312.112 B 61.

The Secretary of State to the American Consul at Ciudad Juárez.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 24, 1911.

It is reported to the Department that Edward M. Blatt, of Avalon, Pa., is confined in Juárez prison. Investigate and report by telegraph cause and circumstances of arrest; probable time of trial; condition of health; and whether he can be released on bail.

KNOX.

File No. 312.112 B61/2.

The American Consul to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Ciudad Juárez (El Paso, Tex.), March 3, 1911.

Case Lawrence F. Converse and Edward Blatt. See dispatch 95 in mail. Absolute proof testimony taken before United States commissioner leaves no doubt boys were kidnapped unarmed on American soil 500 feet from line by Mexican citizens, forcibly taken across boundary line and on Mexican bank of river received by Mexican soldiers and taken to prison and now held in Juárez jail. Have protested without avail. Immediate action urged by parents.

AMERICAN CONSUL.

File No. 312.112 B61/13a.

The Acting Secretary of State to the Mexican Ambassador.

No. 433.] DEPARTMENT OF STATE,
Washington, March 14, 1911.

EXCELLENCY: I have the honor to inform your excellency that this Department is in receipt of reports from the American consuls at Ciudad Juárez and Ciudad Porfirio Diaz, together with confirmatory evidence in the form of the depositions of eyewitnesses, which go to establish that on the 21st or 22d of February last two young American citizens, Lawrence F. Converse, of Glendora, Cal., and Edward M. Blatt, of Pittsburgh, Pa., were kidnapped by the Mexican citizens Ramón Núñez, Deogracias Archuleta, Leonardo Jiménez, and either Miguel Zambrano or Anecleta [Ascención] Archuleta. The kidnappers after seizing these American citizens while on their own soil and forcibly taking from them their personal belongings, bound them with ropes, conveyed them across the Rio Grande River, and delivered them on Mexican territory to Mexican soldiers who were apparently awaiting the return of the kidnappers, and whose commanding officer appeared to be directing the kidnappers' work. At the time of their seizure the Americans appear to have been at the ranch of Melquiades Perea, who with his wife Florentina Palmores and other eyewitnesses who were present at the time the Americans were kidnapped, testify to the above facts. It further appears that after these Americans were carried into Mexican territory and turned over to the Mexican soldiers they were placed in the cárcel at Juárez and kept for three days incommunicado (during which time their testimony was taken) after which they were held on the charge of sedition and were remanded to await trial in the Federal court. The Americans, both of whom appear to be but boys, are said not to deny having been for several days in the camps of the insurrectionists, nor that they at one time belonged to the rebel forces, but they say that they had abandoned the insurrectionists and were at the time of their kidnapping en route to their homes.

Inasmuch as the kidnapping of American citizens from American territory would constitute, under the circumstances given above, a

grave violation of the sovereignty of the United States by officials of the Mexican Government the matter is being most carefully investigated by this Government with a view to determining the actual circumstances of the case, in order that the final attitude of this Government shall be in strict accord with the facts. Should such an investigation result in clearly establishing that these two boys were actually kidnapped upon American territory and taken into Mexican territory the Government of the United States will, as your excellency must perceive, find itself under the necessity of requesting that they be immediately returned, with appropriate explanations, to the American territory from which they were taken.

Should it transpire in the course of the investigation that they have committed any offense which is properly extraditable under the existing treaty of extradition between the United States and Mexico, I need not assure your excellency that your Government will naturally possess the right to institute, in accordance with the treaty, regular proceedings looking to the return of these boys to Mexico for trial and punishment for the extraditable crime with which they may be charged.

Accept, etc.,

HUNTINGTON WILSON.

File No. 312.112 B61/12.

No. 435.] DEPARTMENT OF STATE,
Washington, March 17, 1911.

EXCELLENCY: I have the honor to inform you that the Department has received the following telegram from C. H. Converse, whose son Lawrence is under arrest at Juárez, Mexico:

Please insist on release American boys by Mexico. Sleeping on damp ground contracted severe cold. Pneumonia threatened. His mother verge of nervous breakdown.

I bring this to your attention confident that pending a final disposition of the case of young Converse and Blatt, concerning which I have heretofore addressed a communication to you, the Mexican Government will take all necessary steps to make sure that appropriate care is given to the matter of the health of these American citizens.

Accept [etc.],

HUNTINGTON WILSON.

File No. 312.112 B61/17.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1075.] MEXICAN EMBASSY,
Washington, March 17, 1911.

EXCELLENCY: As stated in my note No. 1055 of the 15th instant[1] to your Department, I sent a telegram to the department of foreign relations in the matter of Converse and Blatt's arrest, and I have the honor to inform your excellency that I am this day in receipt

[1] Not printed.

of telegraphic advices according to which my Government holds documentary proof that these men were arrested on Mexican territory.

The department of foreign relations announces that I shall shortly receive reports and plans showing that Mexico is the legitimate owner of the land on which the arrest was effected.

Notwithstanding this certitude of the Mexican Government a thorough investigation has already been ordered, the results of which I shall in due course submit to your excellency, being animated by the greatest desire to arrive at an agreement on the subject.

I renew [etc.],

F. L. DE LA BARRA.

File No. 312.112 B61/27.

The American Ambassador to the Secretary of State.

No. 405.] AMERICAN EMBASSY,
Mexico, March 24, 1911.

SIR: In further reference to the case of Lawrence Converse and Edward M. Blatt, I have the honor to inclose to the Department a copy in translation of a communication, with inclosure, which I have just received from the foreign office, stating that they have been consigned to confinement to await the action of the district court of Chihuahua.

I have [etc.], HENRY LANE WILSON.

[Inclosure—Translation.]

The Minister for Foreign Affairs to the American Chargé d'Affaires.

No. 29806.] DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 22, 1911.

Mr. CHARGÉ D'AFFAIRES: Referring to the notes of the embassy, Nos. 519–A97, 519–A131, 519–A135, corresponding respectively to February 25 last, and March 10 and 13, relative to the imprisonment of the American citizens, Blatt, Converse, and Brown, I have the honor to transmit herewith a copy of a communication from the district judge at Chihuahua.

I renew [etc.], ENRIQUE C. CREEL.

[Subinclosure—Translation.]

The District Judge at Chihuahua to the Secretary for Foreign Affairs.

DISTRICT COURT, STATE OF CHIHUAHUA,
Chihuahua, March 1, 1911.

The judge of letters for the district of Bravos, by a telegram dated the 26th ultimo, advises me as follows:

I beg to advise you that I have initiated investigation against American citizens Edward M. Blatt, Lawrence F. Converse, and Bill Mho [sic] for complicity in the crime of rebellion and I have to-day decreed their preliminary imprisonment in aid of your court.

Which I have the honor to transmit to you for your information and proper action.

A. MIRANDA.

File No. 312.112 B61/32.

The American Ambassador to the Secretary of State.

No. 419.] AMERICAN EMBASSY,
Mexico, April 1, 1911,

SIR: I have the honor to inclose to the Department for its information in connection with the case of Converse and Blatt, copy of a note from the Mexican consul at El Paso, Tex., which has been furnished the embassy by the foreign office, reporting upon their condition in the district jail at Ciudad Juárez.

I have [etc.],

HENRY LANE WILSON.

[Inclosure—Translation.]

The Mexican Consul at El Paso, Tex., to the Secretary for Foreign Affairs.

CONSULATE OF THE UNITED MEXICAN STATES,
El Paso, Tex., March 22, 1911.

I have the honor to inform you that, complying with your message of yesterday relative to prisoners Converse and Blatt, I went to see the jefe político of the district of Bravos and together with this officer I visited the jail where the prisoners are detained, who apparently are in good health. It is true that the cells where they live are not very comfortable; but, in the first place, they are identical to all others of the same jail, and second, the prisoners have not provided themselves, as they could have done, with beds to sleep on.

The jefe político told me he would do what he could in behalf of the prisoners.

I renew [etc.], TOMAS TORRES.

File No. 312.112 B61/17.

The Secretary of State to the Mexican Chargé d'Affaires.

No. 478.] DEPARTMENT OF STATE,
Washington, April 7 1911.

SIR: Referring to previous correspondence, and particularly to the embassy's note of the 17th ultimo, wherein it was stated that the Mexican Government was conducting a thorough investigation to determine the sovereignty of the territory on which Messrs. Converse and Blatt were captured, I have the honor to say that the Department has not yet been advised of the results of that investigation, and because of the urgency of the matter would much appreciate the receipt of such advice at an early day.

Accept [etc.]' HUNTINGTON WILSON
(For Mr. Knox).

File No. 312.112 B61/36a.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 10, 1911.

Unless the situation concerning the Blatt and Converse arrest case changes it seems probable that the matter will be taken up by Con-

gress and that an agitation will be started by newspapers for the immediate release of the boys, because the prevailing opinion is that they were arrested on American territory. This opinion seems to be borne out by facts. It would be most unfortunate if such agitation were started and would probably cause diplomatic representations by this Government. Unless the Mexican Government should readily acquiesce in them, public feeling in this country would be greatly irritated. The fact that Blatt is reported to be suffering seriously if not critically from tuberculosis makes the situation worse, and serious complications would be added here if unfortunately Blatt should die in a Mexican jail. In view of the above and giving the most favorable consideration to the contentions and allegations of Mexico, with which this Government can not agree, yet [sic] the arrest occurred on disputed territory. This Government is of the opinion therefore that the question of violation of sovereignty should be held in abeyance, and that the boys should be released at once. Such a course would without doubt obviate inconvenient public irritation. As a precedent, reference is made to the famous *Banco de Vala* case, in which Mexico suggested that parties arrested by both Governments on territory which was under dispute should be released and that the question of violation of territory be left for later determination, and the Government of the United States acquiesced therein. The references to this case are found in Department's telegrams to the embassy of September 6, 10, and 14, 1893,[1] and telegram of September 7, 1893, and dispatch of September 9, 1893, from the embassy, and particularly the note from the Mexican foreign office of September 8, 1893, inclosed in above-noted dispatch.[2] It is pointed out that the political offenses with which Converse and Blatt are charged are not regarded either in Mexico or the United States as involving the moral turpitude pertaining to ordinary crimes, and the punishment of persons who participate in such offenses is subject to different rules and considerations than [sic] those which apply to the punishment of ordinary criminals. As no advice has been received as yet by this Government of the results of the investigation of this arrest by the Mexican Government the embassy is instructed to lay this matter before the Mexican foreign office informally. It is further pointed out that, in addition to above-stated grounds for the release of the boys, evidence submitted to the Department clearly shows that, admitting that the arrest took place on disputed territory, the captors passed over American territory after making the arrest, which seems to be a clear violation of American sovereignty. It seems that this fact alone would be sufficient ground for the release of the boys. It is earnestly hoped that the Mexican Government, acting in a spirit of broad fairmindedness, will at once release these boys and return them to American territory. The Mexican Governernment may be assured that this Government is willing to accept the stipulation that the release of Blatt and Converse shall have no bearing upon the question of the sovereignty of the disputed territory.

KNOX.

[1] See Instructions to Mexico, vol. 23, pp. 416, 418, 420.
[2] See Dispatches from Mexico, vol. 118.

File No. 312.112 B61/44.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, April 14, 1911.

The substance of Department's telegram of the 10th instant was brought to the attention of the secretary for foreign affairs, who replied thereto to-day. His note, amplified this morning in a conversation, indicates that his Government can not release Blatt and Converse until a mutual agreement can be made in accordance with the following proposals:

He thinks that the *Banco de Vala* case is not analogous to the Blatt and Converse case because in the former case both Governments made arrests on disputed territory. He thinks the question of sovereignty of the territory in which Blatt and Converse were arrested may be left for future settlement, but the men can not be released until the exact spot of their capture is determined. The capture is reported to have taken place in the *Chamizal* tract, which is claimed to be, under the agreement between Mexico and the United States for the preservation of the status quo, under Mexican jurisdiction, and not only must the exact place of arrest be ascertained but also its judicial status under the above-mentioned agreement. He therefore proposes that the boundary commissioners proceed at once to determine the exact place of arrest, whether it is on a banco, when and how the banco was formed and which country had jurisdiction over the banco. The release of the prisoners will depend upon which country exercised jurisdiction over the banco.

The Mexican Government holds that the arrest was made at Ancón de Guadalupe, which, though situated north of the Rio Grande, is considered a Mexican banco under Mexican jurisdiction. Claim to that effect was made by Mexico two years ago before the mixed commission, and various incidents were enumerated showing that Mexico exercised jurisdiction, and it is claimed that United States officials acquiesced.

The secretary for foreign affairs stated that if the American Government accepts his proposals, the Mexican commissioners will be instructed to proceed at once to El Paso for the determination of the points enumerated, and it seems possible to dispose of the case within a week. The case is nearly terminated in the courts.

Concerning the passage of the captors of Blatt and Converse with the prisoners over American territory and the consequent violation of American sovereignty the secretary for foreign affairs considered them only as secondary incidents in connection with the capture. He agreed, however, to have them included in the discussion if the above-mentioned proposals are accepted by the American Government.

WILSON.

File No. 312.112 B61/51.

The American Consul to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Ciudad Juárez (El Paso, Tex.), April 22, 1911.

The Federal court of Mexico at Ciudad Juárez to-day released from custody Lawrence Converse and Edward Blatt, arrested February 22

and charged with sedition and who claimed to have been taken from American soil. The same court also released Richard Brown, the nurse arrested February 26, also charged with sedition.

THOMAS D. EDWARDS.

File 312.112 B61/50.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 22, 1911.

Instructs him to convey the gratification of this Government to President Diaz for having directed, in the exercise of his constitutional powers and in response to the diplomatic representation made in behalf of the prisoners, the release of Converse and Blatt, and to assure him that not only the parents of the young men but the American people generally will be highly gratified by their release.

KNOX.

File No. 312.112 B61/53.

The American Ambassador to the Secretary of State.

[Extract.]

No. 489.] AMERICAN EMBASSY,
Mexico, April 25, 1911.

SIR: Referring to the case of Messrs. Blatt and Converse, concerning which considerable corespondence has passed between the department and this embassy, I have the honor to report the satisfactory termination of this affair.

On the morning of the 21st instant Mr. H. Converse, the father of young Converse, stated to me that he had been informed that Gen. Diaz desired to confer with him with reference to the case. I decided to send Mr. d'Antin, the law clerk of the embassy, with him to see the President and act as interpreter during the conference.

Mr. d'Antin reports to me that upon being received * * * the President asked Mr. Converse if he would guarantee to him that if the young man were released he would take him home and prevent his attempting to return to Mexico to join the rebels. This, of course, Mr. Converse agreed to do. * * * The President then said that he—exceeding his power, as he had no right to release any person under trial—would give Mr. Converse a letter to Gen. Navarro directing him to release his son.

Mr. Converse then mentioned the fact that Blatt was also a young man and ill, and that his mother, who was living at Philadelphia, had asked him when he was there on business to intercede for her son also. Mr. d'Antin then asked the President if, since the two young men had been captured together and were charged with the same offense, and their case was of a joint legal responsibility, he would not care to extend his clemency to Blatt. The President then

asked Mr. Converse if he would also take Blatt under his care and take him home with his son. Mr. Converse agreed to do so, and the President then told him to come the next day for an order to Gen. Navarro for the release of both boys. The next day, the 22d instant, Mr. Converse and Mr. d'Antin again saw the President, and when the letter of release was delivered to Mr. Converse the President said: "I am doing this without authority, but I am a father like yourself and know how deeply I would grieve were I in your position. Send the good news to your wife with my sincere sympathy." * * *

The order for the release of the young men was telegraphed to Gen. Navarro on the 21st instant.

I have [etc.],

HENRY LANE WILSON.

File No. 312.112 B61/57.

The American Ambassador to the Secretary of State.

AMERICAN EMBASSY,
No. 554.] *Mexico, May 12, 1911.*

SIR: I have the honor to refer to the correspondence relative to the liberating of the American citizens, Lawrence Converse, Edwin Blatt, and Richard Brown, and to transmit to the Department herewith a copy in translation of a note from the foreign office stating that, in accordance with article 190 of the Penal Code of the Federal district, it has been decided to expel them from the country.

I have [etc.],

HENRY LANE WILSON.

[Inclosure—Translation.]

The Secretary for Foreign Affairs to the American Ambassador.

MEXICO, *May 10, 1911.*

Mr. AMBASSADOR: In reply to your excellency's note No. 519A–332 of the 24th of April last, relative to the liberty of the American citizens Converse, Blatt and Brown, I have the honor to inform you that by virtue of the authority conferred upon the Government by the first part of article 190 of the Penal Code of the Federal district, it has been determined to expel them from the Republic.

Inclosed herewith is a copy of said article.

I avail [etc.],

F. L. DE LA BARRA.

[Subinclosure—Translation.]

ART. 190. When a foreigner commits a crime against the external security of the Republic, or the crime of rebellion, the General Government may thereupon at once either expel him from the country or subject him to trial. In the second case, if the criminal shall have been penalized with the punishment of from one to five years imprisonment, he may be expelled from the country upon the completion of one-half of his term of imprisonment. In case the punishment exceeds five years imprisonment, he shall be expelled precisely upon the completion of one-half of his term of imprisonment and not before.

File No. 312.112 B61/58.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1425.] AMERICAN EMBASSY,
Washington, May 25, 1911.

EXCELLENCY: Under a generous decision of the President of the Mexican Republic, Gen. Don Porfirio Diaz, which was received with applause in Mexico and the United States, the young men Blatt and Converse were set free and my Government believes it would be very advisable not to let any of the questions arising from the incident above-mentioned stand.

Judicial proceedings have been instituted by the authorities of El Paso, Tex., against the persons who arrested Blatt and Converse. Warrants have been issued for the arrest not only of those men but also of the brother of one of them, Ascensión Archuleta, who has been arrested. He is worthy of commendation for his good conduct and the willingness with which he always served my Government.

I leave to the benevolence of the Government of the United States, already evidenced by its notes replete with friendly sentiments in the case under consideration, the form in which, aside from any question of jurisdiction now pending as regards the place where Blatt and Converse were arrested, the authorities of the United States can even now deliver a decision which would free from all danger of liability or molestation the captors Deogracias Archuleta, Ramon Núñez and Leonard Zambrano and the above-named Ascensión Archuleta, who was arrested under the warrants issued against the others which did not concern him.

I avail [etc.],

M. DE ZAMACONA.

File No. 312.112 B61/62.

The Acting Secretary of State to the Mexican Chargé d'Affaires.

No. 81.] DEPARTMENT OF STATE,
Washington, July 15, 1911.

SIR: In reply to the embassy's note of the 25th of May stating that the authorities of El Paso have instituted proceedings against the captors of Edwin Blatt and Lawrence Converse and against Ascensión Archuleta, the brother of one of the captors, and requesting that this Government cause the release of these persons, I have the honor to inclose herewith copies of a letter of the 1st instant and inclosure from the governor of Texas,[1] from which you will observe that none of the persons mentioned in your note is in prison in that State and that Ascensión Archuleta, who has been under arrest, has now been released as the result of habeas corpus proceedings.

Accept [etc.],

HUNTINGTON WILSON.

[1] Not printed.

PROTECTION OF CHINESE SUBJECTS IN MEXICO BY AMERICAN DIPLOMATIC AND CONSULAR OFFICERS. TEMPORARY REFUGE GRANTED. WAIVER OF EXCLUSION ACT.

File No. 704.9312.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, March 20, 1911.

The Chinese chargé d'affaires at Mexico City has requested that the American consul at Guaymas be instructed to extend protection to Chinese subjects at that place. Requests instructions.

WILSON.

File No. 704.9312.

The Acting Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 24, 1911.

Instruct the American consul at Guaymas that he may, in so far as the local authorities may permit him to do so and when such course appears to be necessary, extend informal good offices in behalf of Chinese subjects.

WILSON.

File No. 704.9312/2.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, May 8, 1911.

The diplomatic representative of China at Mexico City has informed me that Chinese subjects at Ciudad Juárez can not escape toward the south into Mexico, and requests assistance from the United States in protecting them should Ciudad Juárez be attacked. He suggests that the provisions of the exclusion act be waived, and that they be permitted to cross temporarily into American territory.

WILSON.

File No. 704.9312/3.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 9, 1911.

The request of the Chinese chargé d'affaires at Mexico City, as reported in your telegram of the 8th instant, was communicated to the

Department of Commerce and Labor, and that department has sent the following instruction to the immigration inspector at El Paso:

In case attack upon Juárez permit Chinese enter El Paso under best possible arrangements to insure prompt return on cessation hostilities there.

KNOX.

File No. 704.9312/5.

The American Ambassador to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, May 24, 1911.

According to advice received from the Chinese chargé d'affaires in this city some 300 Chinese subjects have been murdered at Torreón by the revolutionists. He requests that the American consular agent at Torreón extend his good offices in aid of Mr. Woo Lam Po, who has been asked to make an investigation of the massacre.

WILSON.

File No. 704.9312/5.

The Secretary of State to the American Ambassador.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 27, 1911.

If the Mexican Government has no objections the consular agent at Torreón may be instructed to extend his informal good offices in behalf of Mr. Woo Lam Po.

KNOX.

File No. 704.9312/9.

The American Ambassador to the Secretary of State.

No. 635.] AMERICAN EMBASSY,
Mexico, June 6, 1911.

SIR: With reference to the Department's telegraphic instruction of the 27th ultimo, in regard to the use by the American consular agent at Torreón of his informal good offices in behalf of the Chinese residents of that place, I have the honor to inform the Department that the Mexican Government advises me in a note which I have just received that it has no objection to the use of such good offices by the American consular agent at Torreón. I have to-day addressed Mr. Carothers in this sense.

I have [etc.],

HENRY LANE WILSON.

File No. 704.9312/10.

No. 667.] AMERICAN EMBASSY,
Mexico, June 19, 1911.

SIR: With reference to the Department's telegraphic instructions of May 27 last, in which it was indicated that there would be no impropriety, in the event that no objection was offered by the Mexican Government, in the use of good offices by the American consular agent at Torreón on behalf of Chinese, I have the honor to advise the Department that when a condition menacing the safety of the Chinese residents of Tapachula was reported to the embassy, on May 24 last, I considered in view of the above-mentioned instructions that I was not overstepping the bounds of propriety in calling the attention of the foreign office to their predicament, especially on account of the fact that certain of these Chinese possessed American citizenship.

I inclose to the Department herewith copy of a note which I addressed the foreign office, and beg to say that the foreign office in replying has stated that all necessary steps will be taken to protect the lives and property both of Americans and Chinese.

I have [etc.],

HENRY LANE WILSON.

[Inclosure.]

File No. 704.9312/10.

The American Ambassador to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Mexico, June 2, 1911.

Mr. SUBSECRETARY: I have the honor to inform your excellency that this embassy is in receipt of telegraphic advices from the American consul at Tapachula indicating that there is a complete absence of authority at that place and that conditions there are serious. He states that there are murmurs on the part of the lower classes against the Chinese and that the president of the Chinese colony, which numbers 500, is an American citizen, and that he, together with the members of his colony, is fearful that they will be massacred, and has requested asylum at the American consulate in case of danger.

In view of the foregoing I earnestly request that your excellency will do whatever is possible to have American lives and property in Tapachula immediately and adequately protected.

It would seem that on humanitarian grounds such action as is possible should be taken in behalf of the Chinese, in order to prevent a recurrence of so regrettable an incident as that recently taking place at Torreón.

I avail, etc.,

HENRY LANE WILSON.

File No. 151.07/3.

The Chinese Chargé d'Affaires to the Secretary of State.

CHINESE LEGATION,
Washington, June 27, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant,[1] with reference to the application of Wong Foon Chuck and Wong Jon Kin, merchants of Torreón, Mexico, to be

[1] Not printed.

allowed to reside at Eagle Pass, Tex., until the disturbances at Torreón cease, informing the legation that it has been the practice of the American immigration authorities on the Mexican border to allow Chinese residents in Mexico, whether of the merchant class or not, to take refuge in the United States.

This action of the American authorities has given the desired relief to the Chinese residents in Mexico in the present disturbed condition of that country and is sincerely appreciated by the Imperial Government.

Accept [etc.],

YUNG KWAN.

File No. 704.9312/10.

The Secretary of State to the American Ambassador.

No. 408.] DEPARTMENT OF STATE,
Washington, July 5, 1911.

SIR: The Department has received your No. 667 of June 19, 1911, reporting the effort made by you to secure protection for the lives and property of Americans and Chinese at Tapachula, Mexico.

Your action is approved.

I am [etc.],

P. C. KNOX.

File No. 704.9312/11.

The Secretary of State to the American Consul at Ensenada.

No. 9.] DEPARTMENT OF STATE,
Washington, July 15, 1911.

SIR: The Department has received your dispatch No. 11 of June 27, 1911,[1] requesting a copy of the instruction to your predecessor, Mr. George B. Schmucker, authorizing him to look after the interests of Chinese subjects in the consular district of Ensenada.

The Department does not appear to have sent specific instructions on this subject, but at the request of the Chinese minister at this capital all consular officers in Mexico are desired to render such assistance as may be possible to Chinese subjects in Mexico.

I am, etc.,

(For Mr. Knox.)
ALVEY A. ADEE.

PERMISSION TO FOREIGNERS IN PRISON TO BE VISITED BY CONSUL OR DIPLOMATIC OFFICER.[2]

File No. 812.0441/1.

The American Consul General at the City of Mexico to the Secretary of State.

No. 453.] AMERICAN CONSULATE GENERAL,
Mexico, November 1, 1910.

SIR: I have the honor to transmit herewith that part of the Diario Oficial of July 22, 1910, which gives the new order to the governors

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[1] Not printed.

[2] See the same subject under Guatemala.

of the several States to permit the consul to visit a prisoner, even though he is "incomunicado." The Department will appreciate the meaning of this order, because heretofore the law of Mexico has been that a prisoner shall be kept "incomunicado" 72 hours, without being allowed to see and talk with the consul, his family, friends, or lawyer.

I have [etc.],

ARNOLD SHANKLIN.

[Inclosure.]

Circular Order to Governors of States.

[Translation.]

DEPARTMENT OF GOVERNMENT,
Mexico, First Section, Circular No. 693.

The department of foreign affairs has addressed a communication to this department stating that in cases of incommunication of prisoners awaiting trial the judges, exercising the authority which the code of criminal procedure gives them, are inclined frequently to make the incommunication too strict and uselessly severe; and as such strict application of the law to foreigners may cause diplomatic claims to be made in their behalf, the department of foreign affairs urges that the governors of States recommend to the judges therein that as a general rule all prisoners held for trial, whether nationals or foreigners, when incommunicate, should be given every relief consistent with the object of the incommunication; that they should be allowed, where there is no reason against it, to communicate verbally or by writing with other persons; that if foreigners they should preferably communicate with the diplomatic and consular agents of the country to which they belong; and that in general the inconveniences and privations of prisoners should be reduced to what is strictly unavoidable.

I have the honor to communicate the foregoing to you for recommendation to the judges of the State which you worthily govern.

CORRAL.

Liberty and Constitution.
JULY 22, 1910.

File No. 812.0441/3.

The American Ambassador to the Secretary of State.

No. 253.] AMERICAN EMBASSY,
Mexico, November 18, 1910.

SIR: Referring to the Department's instructions No. 124 of October 20 last,[1] directing me to ascertain whether or not it is true that in the future all foreigners who may be imprisoned in Mexico will be allowed to communicate with their respective diplomatic or consular officers, I have the honor to transmit to the Department herewith a copy, in original and translation, of a communication from the department of government stating that foreigners in Mexican prisons may communicate with the diplomatic and consular officers of their countries.

I have [etc.],

HENRY LANE WILSON.

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[1] Not printed.

[Inclosure.]

The Mexican Department of Government to the Mexican Minister for Foreign Affairs.

DEPARTMENT OF STATE AND GOVERNMENT,
Mexico, First Section, No. 694.

On this date the following circular was addressed to the governors of the States:

[The inclosure set forth above in the consul general's dispatch here follows.]

I have [etc.],

CORRAL.

MEXICO, *July 22, 1910.*

The Secretary of State to the American Ambassador.

DEPARTMENT OF STATE,
Washington, April 17, 1911.

SIR: The Department has received your No. 253, of November 18, 1910, transmitting a note[1] from the department of government stating that in future foreigners in Mexican prisons may communicate with the diplomatic and consular officers of their respective countries.

I inclose for your information a copy of an instruction which the Department has addressed to the minister at Guatemala City[2] requesting him to make representations to the President of Guatemala, with a view to bringing about a similar modification of the system of "incomunicación" which prevails in that country.

I am, etc.,

P. C. KNOX.

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[1] This refers to the communication to the Minister for Foreign Affairs; there was no other inclosure.

[2] See page 275.

MOROCCO.

PROPOSAL TO THE UNITED STATES TO ADHERE TO THE FRANCO-GERMAN CONVENTION OF NOVEMBER 4, 1910, RELATIVE TO MOROCCO.

File No. 881.00/483½.

The French Ambassador to the Secretary of State.

[Translation.]

FRENCH EMBASSY,
Washington, November 3, 1911.

Mr. SECRETARY OF STATE: As a result of the disturbances that have taken place in Morocco and demonstrated the necessity of there pursuing, in the interest of all, the undertaking of pacification and progress contemplated by the act of Algeciras, the Government of the French Republic had to take, recently, various measures, the main ones of which have been brought to your excellency's knowledge, either orally or in writing. All aimed at maintaining order and the normal development, on a footing of perfect equality, of the economic interests of the powers concerned.

Pourparlers to the same end were recently entered into by the Government of the Republic and the Imperial German Government. It was agreed from the beginning that the arrangements that might come out of those pourparlers should immediately be submitted to the adhesion of the powers interested.

By order of my Government I have the honor to inform your excellency that the agreement[1] sought has just been concluded, and I inclose its text.

As you will notice, the agreement is intended to facilitate for France the execution of the task of pacification and reorganization, which circumstances place it particularly in her power to prosecute.

The freedom of trade provided by the treaties shall, under the terms of the agreement, be firmly maintained and my Government has bound itself not to connive at any inequality either in the assessment of customs, duties, imposts, or other taxes or in the drawing up of tariffs of railways or any other transportation. France will likewise use her interest with the Moroccan Government to prevent any differential treatment of the citizens or subjects of the powers, and notably to secure for them participation on equally favorable conditions in proposals for contracts and supplies of materials.

Knowing that the Government of the United States seeks nothing more in Morocco than the development of the economic interests of its citizens, as has always been proclaimed by the highest authorities of this country, as your excellency was pleased yourself to remark to me repeatedly, my Government fondly cherishes the hope that the arrangement of which the text is inclosed, and which affords the

[1] Not printed.

most ample guaranties as regards the said interests, will gain the Federal Government's adhesion. It would attach most special value to receiving such an assurance and obtaining from this country, to which it is bound by ties of friendship, a token of good will, the value of which would be further enhanced if your excellency, to whom I venture to appeal, would kindly let me have an answer as soon as possible.

Be pleased, etc.,

JUSSERAND.

The Acting Secretary of State to the French Ambassador.

DEPARTMENT OF STATE,
Washington, November 8, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 3d instant, inclosing a copy of the text of the recent agreement reached between the Government of the French Republic and the Imperial German Government in relation to Morocco, and requesting the adhesion of the Government of the United States to this agreement.

In reply I beg to say that as the adherence of this Government to such an agreement would seem to imply the modification of certain of its existing treaty rights, the consent to such adherence on the part of the United States involves the conjoint action of the treaty-making powers of this Government and our acceptance of the agreement in question could therefor be made only by and with the advice and consent of the Senate. The Department will be glad, at any time you so desire, to discuss more fully with your excellency the questions presented by the agreement above mentioned.

Accept, excellency, the renewed assurances of my highest consideration.

ALVEY A. ADEE,
Acting Secretary of State.

File No. 881.00/532.

The French Ambassador to the Secretary of State.

[Translation.]

FRENCH EMBASSY,
Washington, December 6, 1911.

Mr. SECRETARY OF STATE: By order of my Government, which is in accord with the German Government in this matter, I have the honor to communicate herewith to your excellency a copy of two explanatory letters exchanged by the ambassador of the French Republic at Berlin and the imperial secretary of state for foreign affairs to accompany the Franco-German convention of November 4 relative to Morocco.

These letters [1] specify the scope of some of the articles of the convention; they are communicated to all the powers signatory to the act of Madrid.

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[1] Not printed.

I avail myself of this opportunity to remind your excellency of the value my Government would attach to hearing that, for your part, your excellency sees no objection to the introduction into Morocco of reforms that not only respect the American economic interests in those parts, but also insure their development under conditions infinitely more favorable than if the disturbed situation of these last years had continued.

As regards the changes to be made in the status quo which would involve a modification of existing international agrements, my Government is aware that the approval of the United States Senate is required. It would, however, wish to receive even now the assurance that your excellency would be disposed to take such steps as may be necessary to accomplish that end.

Referring to the indications I already have had the honor to make known to your excellency, I beg leave to remind you that the arrangement concluded on the 4th of last month by France and Germany has already received the adhesion of Russia, England, Italy, Sweden, and Morocco itself, whose Sultan has forwarded to the Government of the Republic letters formulating unqualified acceptance.

Be pleased, etc.,

JUSSERAND.

The Secretary of State to the French Ambassador.

DEPARTMENT OF STATE,
Washington, December 15, 1911.

EXCELLENCY: Referring to your excellency's note of the 6th instant inclosing copies of two explanatory letters exchanged between the ambassador of the French Republic at Berlin and the imperial secretary of state for foreign affairs, to accompany the Franco-German convention of November 4 last relative to Morocco and specifying the scope of some of the articles of that convention, previously transmitted, I have the honor to inform your excellency that in conformity with the traditional American foreign policy which forbids participation by the United States in the settlement of political questions which are entirely European in their scope, this Government must refrain from any expression of opinion for or against such part or parts of the Franco-German agreement in relation to Morocco as may be deemed of a political nature.

As regards the desire of the Government of the French Republic that the Government of the United States will adhere to the articles in this agreement relating to commercial rights and the administration of justice, I beg to call your excellency's attention to the fact that adhesion on the part of this Government, so far as these articles are concerned, would involve a modification of our existing treaty rights with Morocco, which under our Constitution could only be done by and with the advice and consent of the United States Senate.

I take pleasure, however, in informing your excellency that, in conformity with the expressed desire of the French Republic, the Department would feel inclined, when the proper time may come, to un-

dertake negotiations with a view to entering into such new treaty arrangements as may be appropriate for modifying our existing extraterritorial rights and the rights of American protégés in Morocco along the lines suggested in the Franco-German agreement and in general to agree in principle to the other articles of the agreement, provided that the commercial and other advantages secured to us under our existing treaties are preserved.

Accept, excellency, the renewed assurances of my highest consideration.

P. C. KNOX.

NICARAGUA.

ESTABLISHMENT OF A TRIBUNAL OR MIXED COMMISSION TO SETTLE CLAIMS OF ALIENS AGAINST NICARAGUA.[1]

File No. 817.00/1484.

The Nicaraguan Minister for Foreign Affairs to the American Special Agent.[2]

[Translation.]

MANAGUA, NICARAGUA, *November 5, 1910.*

Hon. THOMAS C. DAWSON, *City.*

SIR: After a period of 11 months of war, the Provisional Government of the Republic, presided over by Gen. Juan J. Estrada, by establishing itself in this capital achieved the triumph of the just cause it sustained. This country, however, having been operated by unfortunate administrations for 17 years, had reached such disorganization in all branches that it was impossible to reestablish at once the administrative order which we so much need in order to raise the nation from the horrible decadence which it has suffered.

The chief obstacle to this work of reconstruction has been encountered in the public finance, weakened by the abuses committed against it by the governments of Gen. Zelaya and Dr. Madriz. The illegal concessions granted to private parties for their profit, much to the detriment of the nation, have been a principal party to this ruin. Foreigners have participated in these contracts, and the Government that will have to destroy all these illegalities may also encounter hindrances through a lack of confidence that the Governments of these foreigners might have in the proceedings of my Government, which is in the category of a government created originally out of a revolution.

My Government, in order to overcome these obstacles, has thought of the moral support of the United States, and in order that we may agree in this respect with the Department of State, His Excellency President Estrada, in a telegram dated September 10 last, solicited the sending of a commissioner who would come to learn, near at hand, the difficulties that confront us and the plans that have been formed by my Government, and thereupon present a plan to overcome them.

The Department of State had the good judgment to choose your excellency for this purpose, and your excellency, with the time you have had to observe the country, must have acquired the conviction that our promises as revolutionaries, which were in entire sympathy with the noble American people, are to-day our firm purposes of government.

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[1] See Foreign Relations 1910, p. 766; telegram of Nov. 6.

[2] Mr. Dawson, American Minister to Panama, had been designated special agent of the United States near the Provisional Government of Nicaragua. See For. Rel. 1910, p. 764.

Wishing to strengthen the esteem of which the American Government has already given us so many proofs, and which my Government requires for its political redemption, I desire to manifest through your worthy medium to the Department of State in Washington the political and economic program that will be put in force by my Government during its administration, relying on the support of all the chiefs of the revolution, both those that occupy office and those not now actually members of my Government.

The following are the bases of this program:

The convocation, by decree, which was published at the time, of a constituent assembly, whose deputies will be elected by unrestricted popular vote, which my Government guarantees to the Nicaraguan people, to the end that the said assembly, being a true and popular representation, may reestablish in a democratic constitution the principles of liberty and the guaranties fallen into disuse during the administrations of Zelaya and Madriz, and which Gen. Estrada promised to restore in his proclamation of October 11 of the past year. In this constitution, with the amplitude of modern rights, there will be equal guaranties to nationals and foreigners and, in expressed form, a proscribing of commercial monopolies.

This assembly will be called also to legalize the provisional status of the Government of the Republic; and the chiefs of the revolution, in order to give time for their program to develop and to insure the establishment of their principles, have agreed to use all their influence in favor of the deputies elect, in order that the presidency of Gen. Juan J. Estrada be ratified for a period of two years; creating at the same time the post of vice president, to fill which Don Adolfo Diaz, identified with Gen. Estrada, will be a candidate; and which will secure, in case of vacancy, the continuation of the President's policy. This policy, the principles of which were contained in the above-mentioned telegram of September 10 of this year, will also guarantee a free election, in order that the people may choose the successor of Gen. Estrada. The constituent assembly will enact laws that will guarantee this liberty; and the Government will maintain the liberty of the press, in order that its adversaries may have voice in the direction of the destinies of the country; will abolish the monopolies, concessions, leases, and other illegal contracts relative to national revenue and properties which were created during the administrations of Zelaya and Madriz.

In order to give full guarantee of impartiality to foreigners in these acts, the Government desires to place itself in accord with the Department of State in the formation of a tribunal to investigate the claims which might originate from such acts and to this effect submits for the approval of the Department of State the project of appointing a commission composed of one Nicaraguan and one American citizen recommended by the Government of the United States. This commission in case of disagreement between its members will submit its judgments to the decision of a third, whom they will appoint by mutual accord.

It is understood that this tribunal will investigate only unliquidated claims. Regarding those which are now liquidated, my Government will respect whatever has been agreed upon between the former Governments of Nicaragua and other nations, paying such amounts as by virtue of those settlements this Republic may owe.

In order to reestablish the public finance, consolidate the foreign and internal debt and pay the legitimate claims of nationals as well as foreigners, my Government desires to obtain a loan in the United States the payment of which will be guaranteed by a certain per cent of the customs fees of the Republic, collected in conformity with the terms of a contract satisfactory to both Governments.

The minister of hacienda having indicated to me that he has been informed that the Washington Government would lend us its good offices to this end, we solicit, through the worthy medium of your excellency, of the American Government the sending of a financial expert in its confidence, for the purpose of agreeing with the minister of hacienda upon the plan of a loan on terms satisfactory to creditor and debtor.

My Government, having the best disposition to strengthen the ties of friendship that bind us to the United States, and hoping fully to remove the causes that severed the relations between the American Government and those of Zelaya and Madriz, has the firm purpose to prosecute and punish those responsible for the death of Cannon and Groce, and to pay a reasonable indemnity to the families of those good servants of the cause of the redemption of Nicaragua. The amount of this indemnity will be agreed upon between my Government and the United States after being duly informed of the results of these proceedings.

My Government requests of your excellency to manifest to the Department of State all these purposes and desires.

I am, etc.,

TOMÁS MARTÍNEZ.

File No. 417.00.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *February 27, 1911.*

The Department is convinced of the wisdom of establishing the tribunal proposed in general terms by Martínez in his note to Dawson November 5, 1910. Further consideration suggests the following specific plan.

A commission of three persons acting as one tribunal, one to be a Nicaraguan, one a citizen of the United States recommended by this Government, both appointed by the Government of Nicaragua; and an umpire appointed by the Department of State.

The initial presentation of each case to be before the tribunal so constituted and heard in its entirety by the tribunal.

A majority vote of the tribunal to be sufficient for a decision in all cases presented.

Inasmuch as claims of other aliens than Americans may go before the commission, the Department is convinced that such a constitution would disarm criticism, as all parties would be better satisfied if the Department should appoint the umpire than if he were appointed by accord of the two appointees of the Nicaraguan Government.

You will at once begin to arrange with the foreign office for the creation of a tribunal, according to the plan above outlined, and will inform the Department what compensation the Nicaraguan Government propose to allow the commissioners.

KNOX.

File No. 417.00/1.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *March 2, 1911.*

I am informed that the commissioners will be allowed $8,000 per year with $2,000 additional for expenses.

Moffat wishes to resign consulship and serve as commissioner.

President Estrada is pleased with details of proposed constitution of the commission. I have formally presented the specific plan to the foreign office. Unless limited in some way, I believe the commission might prolong duration of session indefinitely.

NORTHCOTT.

File No. 417.00/40.

MANAGUA, *March 9, 1911.*

The Nicaraguan Government has agreed to the Department's proposed constitution of the commission as per telegram of February 27. The President intends to establish the commission at once, by decree; but opinion is expressed here that under the Zelaya constitution he can not do so without the ratification of the Assembly, which it seems will be impossible to secure.

NORTHCOTT.

File No. 417.00/21.

The American Minister to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Managua, March 7, 1911.

SIR: I have the honor to inform your excellency that I am instructed to present to your excellency's Government for its consideration the following specific plan for the constituting of the tribunal proposed in general terms by Dr. Tomás Martínez, former minister for foreign affairs of your excellency's Government, in his note to the Hon. Thomas C. Dawson of November 5, 1910.

The proposed commission to be composed, for all cases, of three persons acting as one tribunal; the three persons to be one Nicaraguan and one American citizen, the latter recommended by the Government of the United States, both of whom are to be appointed by your excellency's Government, and an umpire to be appointed by the Department of State of my Government; every case to be initially presented before the tribunal so constituted and to be heard in its entirety and decided by the tribunal, a majority vote of the tribunal being sufficient for a decision upon all matters coming before it; the two commissioners and the umpire all sitting as a court on all cases presented for adjudication, and all voting on each case.

Permit me to add that I would appreciate very much a statement of the opinion of your excellency's Government as to these proposed details at your excellency's convenience.

I avail, etc.,

ELLIOTT NORTHCOTT.

File No. 417.00/21.

The Minister for Foreign Affairs to the American Minister.

[Translation.]

MANAGUA, *March 14, 1911.*

Mr. MINISTER: Referring to your excellency's courteous communication of the 7th of this March, relative to the constitution of the tribunal proposed by Mr. Tomás Martínez, former minister of Nicaragua, in his note of November 5, 1910, addressed to the Hon. Thomas C. Dawson, I have the honor to reply to your excellency that I have received instructions from my Government to say to your excellency that, after a careful examination of the reforms or modifications which your excellency was pleased to propose acting under instructions from the Government of the United States of America, the Nicaraguan Government accepts these modifications, which may be interpreted to mean the guaranteeing of the solidity of the tribunal, the validity of its acts, the efficacy of its decisions, and the avoidance of all difficulty for Nicaragua which may arise from decisions rendered in matters in which foreigners may be interested.

In regard to this matter it is my honor to inform your excellency that my Government would be very much obliged to your excellency if you would please acquaint us, in so far as you may deem appropriate, with your opinion on this point.

I avail, etc.,

JOAQUIN GOMEZ.

File No. 417.00/4.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *March 14, 1911.*

You will exchange notes with the Nicaraguan Government making final arrangements for the constitution and establishment of the proposed claims commission under the plan set forth in the Department's February 27, and recommending Moffat as the second commissioner.

The Department regards it as futile to establish a commission the legality of which may later be questioned. The Nicaraguan Government should take measures to insure the legality, and you will in this connection invoke the note of the minister for foreign affairs of November 5, 1910, to Mr. Dawson, and also the agreement of various party leaders, of which you have received copies marked "Inclosure 1" and "Inclosure 2" in the Department's instructions to you dated January 20, 1911. You will be especially careful to cause the scope of the jurisdiction of the proposed claims commission to be clearly identical with that indicated in paragraph 4 of the Department's instruction to you of January 20, 1911.[1]

WILSON.

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[1] For the text of the agreement and instructions, see "Political affairs."

File 417.00/21.

The American Minister to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Managua, March 21, 1911.

SIR: I have the honor to inform your excellency that I am directed by my Government to inform the Government of your excellency that pursuant to the desire heretofore expressed by the Government of Nicaragua to place itself in accord with the Department of State of the Government of the United States in the formation of a tribunal to investigate and pass upon all unliquidated claims against the Government of Nicaragua, including such as may arise out of the abolition or discontinuance of the monopolies, concessions, leases, and other contracts created during prior Nicaraguan administrations, so that there may be given a guaranty of impartiality to foreigners in the adjustment of these matters, the Government of the United States has assented to the proposal made by your excellency's Government to form such a tribunal, and agrees to join the Nicaraguan Government in the constitution and establishment thereof.

It is understood by my Government that the said tribunal or claims commission shall be composed, for all cases, of three persons acting as one tribunal; the three persons being: One Nicaraguan, and one citizen of the United States, the latter recommended by the Government of the United States, both to be appointed by the Government of Nicaragua, and an umpire to be appointed by the Department of State of the United States; every case in which the above-mentioned claims are involved to be initially presented before the tribunal so constituted and to be heard in its entirety and decided by the tribunal, a majority vote of the three members being sufficient for a decision upon all matters coming before it; the two commissioners and the umpire all sitting as a court on all cases presented and all voting on each case.

I have the honor further to inform your excellency that I am directed to say that my Government recommends Thomas P. Moffat, Esq., to your excellency's Government for appointment as the second member of said commission.

I avail, etc.,

ELLIOTT NORTHCOTT.

File No. 417.00/21.

The Minister for Foreign Affairs to the American Minister.

[Translation.]

MANAGUA, *March 24, 1911.*

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's courteous communication of the 21st instant in which your excellency is pleased to inform me that, in accordance with the wishes previously expressed by the Government of Nicaragua to place itself in accord with the Department of State of the United States with regard to the organization of a tribunal to examine and

pass upon all unliquidated claims pending against my Government including such as may originate from the cancellation or suspension of monopolies, concessions, leases, and other contracts entered into by prior Governments of this Republic for the purpose of guaranteeing the necessary impartiality to foreigners in the adjustment of these questions, the Government of the United States assents and accedes to the proposal of my Government to form such a tribunal and agrees to act with the Government of Nicaragua in constituting and composing the tribunal referred to above.

Your excellency then goes on to explain what is in your opinion the composition, procedure, and practice of the tribunal, and you conclude by informing me that your excellency's Government recommends that Thomas P. Moffat be nominated as the second member of the commission.

I have received instructions from my Government to reply to your excellency that, as the Governments of Nicaragua and the United States are in accord on these points, it will proceed to take the necessary steps leading to the creation, the organization, and the constitution of the tribunal, keeping before it the fact that Mr. Moffat has been recommended, and assuring your excellency that the name of the Nicaraguan member will very soon be made known.

I avail, etc.,

JOAQUÍN GÓMEZ.

File No. 417.00/13 and 56.

Act of April 4–May 17, 1911, of the Nicaraguan Constitutional[1] *Assembly approving the presidential decree of March 29, 1911, establishing the tribunal or mixed commission.*[2]

[Translation.]

The National Constituent Assembly decrees that the presidential decree of March 29, 1911, is approved in the following terms:

The President of the Republic, having agreed with the Government of the United States of America as to the manner of jointly giving a just and equitable solution with regard to the validity or invalidity of all pending claims against the Government of Nicaragua, including those originating in the abolition or discontinuance of the monopolies, leases, concessions, or contracts granted or entered into by former Governments of Nicaragua, and in order to secure equally to both citizens and aliens their lawful rights by the power invested in him and in ministerial council, decrees:

ARTICLE 1. The establishment in this capital of a tribunal or mixed commission which shall examine and finally adjudge all unliquidated pending claims against the Government of Nicaragua, including those originating in the abolition or discontinuance of monopolies, concessions, leases, or any other forms of contracts made by former Governments of the Republic.

ARTICLE 2. The tribunal or mixed commission shall be composed of three persons, to wit: One of its members shall be a citizen of Nica-

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[1] The terms "Constituent" and "Constitutional" are both applied to this assembly in the course of the correspondence. See the comment in the minister's dispatch 152, under "Political affairs."

[2] Enacted Apr. 4, 1911, by the first assembly. Reenacted May 17, 1911, by the second assembly, which convened May 1, 1911; President Estrada dissolved the first assembly on Apr. 5, 1911; he resigned the presidency May 9, 1911, and the reenactment was under the presidency of Adolfo Diaz.

ragua, appointed by the Government of Nicaragua; another member whom this Government shall also appoint, but upon the recommendation of the Government of the United States of America; and a third member who shall be appointed by the Department of State of the American Government.

ARTICLE 3. All proceedings relating to claims of the character mentioned in article 1 shall begin before said tribunal or mixed commission, which shall hear, try, and judge them in all their phases; and a majority of the votes of the members shall suffice for final judgment in all cases, and in pronouncing said judgment every member of the tribunal shall vote.

ARTICLE 4. The tribunal or mixed commission shall begin to sit for a hearing of claims within 15 days after the publication of this decree, and shall draw up such rules of practice and procedure as shall give to each party to the cases before it due hearing and adequate time for the presentation of evidence.

ARTICLE 5. The individuals or companies referred to in article 1, or their assigns, who shall not have brought their claims before the tribunal or mixed commission within six months, shall by such default be held to have lost said claims, together with all claims to indemnities; and upon the request of the Government of Nicaragua, and without the necessity for any further proceedings, the tribunal shall adjudge their concessions, leases, or contracts to be forfeited.

ARTICLE 6. The President shall cancel by special decrees such contracts or concessions as are referred to in article 1.

ARTICLE 7. The present decree is also applicable to cases already begun by the Government before the courts of the country.

ARTICLE 8. The authorities of Nicaragua shall give to the tribunal or mixed commission the same support as to the courts of Nicaragua.

ARTICLE 9. Each member of the tribunal shall receive an annual salary of $8,000 gold and $2,000 gold for expenses, which shall be paid by the general treasury of the Republic.

ARTICLE 10. To represent the Government of Nicaragua upon said tribunal Dr. Carlos Cuadra Pasos is hereby appointed, and upon recommendation of the Government of the United States of America the Hon. Thomas P. Moffat; as the third member, the person who shall be designated by the Secretary of State of the American Government shall be recognized.

ARTICLE 11. The previous Governments mentioned in article 1 are hereby understood to be those presided over by Gen. J. Santos Zelaya and Dr. José Madriz.

ARTICLE 12. The mixed commission shall also have jurisdiction over such claims as the Government of Nicaragua may have to make for the reasons expressed in article 1 or because of infractions committed by concessionaires or parties to contracts.

ARTICLE 13. The President shall proceed to the cancellation directed to be made in article 6 hereof within the term of one year from the promulgation of the present decree.

ARTICLE 14. The term of six months fixed in article 5 shall begin to run from the day on which the decree of cancellation shall have been promulgated when such decree is the basis of the claim, and in other cases it shall run from the day of the promulgation of this decree.

File No. 417.00/18.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

MANAGUA, *April 17, 1911.*

By virtue of the decree of the Government of Nicaragua the Department on April 11 appointed Otto Schoenrich, formerly judge of the district court of Mayaguez, Porto Rico, to be a member of the mixed commission. You will so inform the Nicaraguan Government.

KNOX.

File 417.00/27, 28.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *May 9, 1911.*

Judge Schoenrich arrived at Corinto May 5. Moffat left Managua last Monday for the United States.

NORTHCLIFF.

File 417.00/42.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 26, 1911.

The Department, having very carefully considered the wording of the decree establishing the claims commission, is convinced that certain modifications should be made therein. The department in this connection desires to inspect the Spanish text of proposed amendments, numbered to correspond with the articles which they are designed to amend. Following are the modifications proposed:

The preamble changed to read:

The President of the Republic, having conferred with the Government of the United States as to the best mode of affording a just and equitable solution, etc.

Article 1 should have this addition:

ARTICLE 1. * * * The claims referred to in this article are all those claims which from any cause whatsoever may arise or may have arisen against the Government of Nicaragua from the beginning of the administration of President Zelaya until the commission closes its work, including claims which may arise out of the belligerent operations of either faction during the recent civil war. To facilitate the better examination of these claims, the commisson is empowered to meet in its discretion in places other than Managua, and it shall give due and appropriate notice of such meetings to the parties interested. The commission shall in its consideration of claims give precedence to claims arising out of military loans, requisitions, or exactions by either faction during the recent civil war.

To article 2 there should be added:

ARTICLE 2. * * * The commissioner appointed by the Department of State shall act as president of the tribunal, and no meeting at which he or

his duly appointed successor is not present shall be held. All vacancies arising from whatever cause shall be filled within 30 days from the beginning of such vacancies in the same manner in which the original appointment was made.

Article 3, as follows:

ARTICLE 3. All matters coming before the tribunal shall be decided by a majority vote. If any member of the commission is persistently absent without just cause, or for any reason is incapacitated for the performance of his duties, the attending members shall notify the Government of Nicaragua, which shall thereupon declare the commissionership vacant, which vacancy shall immediately thereupon be filled as provided in article 2. The commission is empowered to employ the clerical force necessary for the conduct of its work, which clerical force shall be compensated by the Nicaraguan Government.

To Article 4 should be added:

ARTICLE 4. * * * No rule or regulation shall be put into effect until the president of the commission shall have recorded his opinion thereon.

To article 5 should be added:

ARTICLE 5. * * * *Provided, however*, That the right to question the cancellation or annulment of concessions, and the right to indemnify, shall not be forfeited and the forfeiture of rights and remedies with reference thereto shall in no case be declared by the tribunal except upon proof satisfactory to the tribunal that, six months prior to the motion for such judgment, the Government of Nicaragua gave in appropriate form express notice to the parties concerned of the intention of the Government to move for such judgment against them, and except it appears that said parties have failed to appear before the tribunal for such time, no valid excuse for such failure to appear being shown.

To article 6 should be added:

ARTICLE 6. * * * *Provided*, That no contract or concession contemplated in articles 1, 5, or 6 shall be canceled or annulled except upon the ground that such contract or concession is illegal or unconstitutional, and that no decree of cancellation or annulment shall take effect until affirmed by the commission after an opportunity for a full hearing has been given to the parties in interest and until such damages, if any, as may by the commission be found due to the concessionaires from the Government of Nicaragua shall have been paid: *And provided further*, That no cancellation or annulment heretofore decreed by the present Nicaraguan Government shall take effect until a like determination by the commission and payment of damages, if any, by the Government. Where, by reason of special equipment or experience or for any other sufficient reason, the parties from whom the concession or contract is taken are better able to carry on the legally proper part of such concession or contract than a new concessionaire, such parties if responsible shall be given preference as to any new grant touching the same matter, which new grant shall be conferred in as liberal terms as may be consistent with the law and the national welfare.

Article 14 should be amended as follows:

ARTICLE 14. The six-months period above mentioned shall begin to run from the date on which the actual notice of the annulment or cancellation of the concession is given to the concessionaire or contractor, provided that in no case shall such six-month period be held to expire at a date earlier than six months from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims; and provided that as to all other claims the period shall begin to run from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims, which date shall be notified by proper publication in the official gazette for a period of 30 days beginning 15 days before said date of opening and continuing for 15 days after said date of opening.

An additional article 15 containing the following stipulations should be added in words to the following effect: The Government of Nicaragua shall accept the decision of the tribunal as final and

binding adjudications of the claims passed upon by the tribunal, and undertakes to pay all awards made by said tribunal against the Government.

KNOX.

File No. 417.00/43.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *July 1, 1911.*

Does the wording "by the present Nicaraguan Government," in article 6, apply to the Government of President Estrada? The Nicaraguan Government fears this paragraph would require reinstatement of the concession of the Bluefields Steamship Co., with its exclusive right of navigating Escondido River, of the lottery concession, and of other concessions referred to in the minister's dispatch 52, of May 25.

GUNTHER.

The Secretary of State to American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *July 7, 1911.*

"Present Nicaraguan Government" applies to Government of President Estrada. This provision was inserted because the decree organizing the tribunal provides for the cancellation and annulment of contracts and concessions by executive decree. Against executive action of this sort there is a strong prejudice in this country, and concessionaires losing their rights by mere executive decree would surely make such representations to this Government as would lead to the embarrassment of both the Department and Nicaragua. Therefore, in order adequately to protect American citizens and thus avoid criticism and opposition here, it is deemed best to provide, first, that no concession be canceled by executive decree except for illegality or unconstitutionality; and, secondly, that before such cancellation or annulment is put into effect its propriety be determined by the commission. In the case of onerous contracts which, though not illegal or unconstitutional, are of such a character that the economic welfare of the country requires their modification, rights which they cover should, in the Department's opinion, be obtained by the Government through regular expropriation proceedings instituted under the laws of Nicaragua.

You will impress upon the Nicaraguan Government that this Government is wholly disposed to so assist the Nicaraguan Government as to enable it to place itself in all respects upon a sound financial and economic basis. But in order to avoid criticism here and to enable that Government so to place itself it is obvious that the plans recommended must adequately protect legitimate American interests by providing, among other things, a legal procedure recognized as appropriate here in analogous cases. It is believed that this double

remedy (first by expropriation proceedings in court under general law, and second by annulment and cancellation under the decree creating the commission) will afford Nicaragua ample machinery for meeting the whole situation.

KNOX.

File No. 417.00/48.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *July 10, 1911.*

Of the contracts or concessions at issue not more than three are considered either illegal or unconstitutional in the opinion of President Diaz, the president of the assembly and the Nicaraguan member of the mixed commission. In view of this I beg leave to await further instructions before communicating to the Nicaraguan Government the substance of the Department's telegram of July 7. Nearly all the rights of Americans and other foreigners in the industrially improper concessions, contracts or leases will be obtained by the Nicaraguan Government under the expropriation arrangement proposed, according to the decree as set forth in your telegrams of June 26 and July 7, and the jurisdiction of the mixed commission will be limited to the consideration of the three illegal or unconstitutional concessions, miscellaneous claims and war claims; consequently the Department's plan adequately to protect the interests of Americans and other foreigners might possibly be frustrated by the Nicaraguan courts, from which foreigners may receive but scant consideration. Payment of damages from the proceeds of the loan must be made in case expropriation proceedings are instituted.

GUNTHER.

File No. 417.00/49.

MANAGUA, *July 12, 1911.*

There has been a leak in Government circles and the substance of your telegram of June 26 has got out somehow and produced considerable agitation, and the opinion generally expressed is that the United States Government has repudiated its policy of protecting Nicaragua against foreigners holding rights in ruinous concessions or contracts. I have reason to believe that the Department's suggestion as to expropriation proceedings would not greatly help the matter, and strongly urge that no further action be taken until the assembly approves the loan contract.

GUNTHER.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *July 18, 1911.*

American and other foreign owners of industrially improper concessions to be obtained by the Nicaraguan Government by expropriation proceedings may, under the decree establishing the commission, appeal to the commission, it would seem quite clear, should they be dissatisfied with the award of Nicaraguan courts. In case of doubt

on this point the Nicaraguan Government could give assurance by hastening expropriation proceedings in the courts and authorizing the presentation of the matter to the tribunal. Furthermore, application to such industrially improper concessions of the principle set forth in amendment of article 6 of the decree regarding illegal or unconstitutional concessions would apparently enable the Nicaraguan Government to revise such concessions to make them conform to the industrial needs of Nicaragua, by amicable arrangement wherever possible, with the concessionaires.

You will fully explain to President Diaz, regarding your telegram of July 12, the Department's attitude as outlined in the present telegram, as well as in that of July 7. The Department has every disposition to assist the Government of Nicaragua in every way in which it properly may, and you will make this point perfectly clear to the Nicaraguan authorities. Having done so, you may, in your discretion, refrain from pressing the question of the modification of the decree as outlined in the Department's June 26 until after settlement of the loan contract.

KNOX.

File No. 417.00/54.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *July 20, 1911.*

I have fully explained to President Diaz the Department's attitude outlined in your telegrams of July 7 and July 18, and in order to make it perfectly clear to the Nicaraguan authorities I have reiterated that the Department has every disposition to help the Government of Nicaragua in every way in which it properly may, in order to enable it to place itself in all respects upon a sound financial and economic basis. President Diaz, Gen. Mena, and the Nicaraguan member of the mixed commission have agreed to the modifications proposed in the department's telegram of June 26, and have expressed the hope that the submission of the revised decree to the assembly might be postponed until the loan had become assured. The assembly, they explain, would hesitate to pass a law providing for the immediate payment of damages from the treasury until the assembly felt sure that the treasury was able to make those payments. They believe, on the other hand, that several features of the revised decree would prove objectionable to the assembly and endanger the ultimate passage of the loan. Dr. Cuadra Pasos therefore advised postponement of pressing the modifications of the decree upon the assembly until that body passes the loan contract, in which the President and Mena concurred.

GUNTHER.

File No. 417.00/54.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *July 26, 1911.*

The Department agrees to postponement of modifications of decree as outlined in Department's June 26, in accordance with your July 20.

KNOX.

File No. 417.00/57.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *July 29, 1911.*

I transmit herewith, in pursuance of instructions in your June 26, amendatory decree[1] worded as President Diaz is willing to approve it. The department's proposed modification of article 4 has been embodied in amendment to article 2, in order to facilitate passage in the assembly.

GUNTHER.

File No. 417.00/65.

No. 101.] AMERICAN LEGATION,
Managua, August 7, 1911.

SIR: I have the honor to inclose herewith a confirmation copy of the mixed commission amendatory decree in the form in which President Diaz is willing to approve it.

I have, etc.,

F. M. GUNTHER.

File No. 417.00/72.

MANAGUA, *September 23, 1911.*

Since a favorable opportunity may at any moment arise for submitting the mixed claims commission decree to the assembly, President Diaz hopes the Department will immediately place him in a position to do so.

File No. 417.00/72.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *September 26, 1911.*

The Spanish text of the amendments as submitted in the legation's No. 101, of August 7, 1911, which differs slightly from that telegraphed July 29, is entirely satisfactory to the Government of the United States. You may so inform the Nicaraguan Government, and if you believe it will aid in carrying out the general program, you may do so at once. The Department has withheld its decision because it believes the matter of the decree ought to be considered after consideration of the loan, as the usefulness of the mixed commission depends very largely on the loan. This Government, however, would be satisfied with a simultaneous consideration of the loan and the mixed commission decree. When these two matters have been favorably acted on, the Department will be glad to consider the nomination of a successor to Moffat, and it is suggested that meantime the Nicaraguan Government terminate relations with him.

WILSON.

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[1] As the draft of the amendatory decree given in this telegram is identical with the decree enacted on Oct. 14, the text is here omitted and printed below as the inclosure to Mr. Gunther's No. 137 of Oct. 31.

File No. 417.00/74.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *September 28, 1911.*

The President is gratified to be now placed in a position for seizing a favorable opportunity for submitting the amendatory decree to the Assembly, should such an opportunity occur during the consideration of the loan contracts.

The opposition to these loan contracts and concessions is becoming more determined, and they are now supported only by Gen. Mena and Minister Cantón. The president of the Assembly and the minister of hacienda (finance) are conducting dangerous propaganda against the loan; and foreign business men who also loan and change money are making every effort to defeat the projects. The signed approval of all cabinet ministers is necessary to the President's message transmitting the contracts to the Assembly.

GUNTHER.

File No. 417.00/76.

The Acting Secretary of State to the American Ambassador to Great Britain.

No. 1593.] DEPARTMENT OF STATE,
Washington, October 10, 1911.

SIR: In connection with previous correspondence on the subject of the Nicaraguan Claims Commission, a copy of an instruction to the legation at Madrid is inclosed for your information. Similar instructions have been sent to the embassies at Paris, Berlin, and Rome.[1]

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

The Acting Secretary of State to the American Chargé d'Affaires at Madrid.

DEPARTMENT OF STATE,
Washington, October 10, 1911.

SIR: As you are probably aware, the Government of Nicaragua, with the advice of this Government and as a corollary of the general plan for the rehabilitation of the finances of Nicaragua, has established a Nicaraguan Claims Commission to adjudicate the claims of nationals and foreigners against the Government of Nicaragua. Most of these claims are on behalf of Nicaraguan citizens and are a result of the long and arbitrary administration of ex-President Zelaya Nationals of the United States, Germany, Great Britain, France, Italy, Spain, and other countries, however, also have claims against Nicaragua.

[1] Also to the legation at Guatemala.

By a decree ratified by the Nicaraguan Assembly on April 4 last, it was ordered that the commission should be composed of three members—one Nicaraguan and two Americans. Dr. Cuadra Pasos and Mr. Moffat were appointed by the Government of Nicaragua, and Judge Otto Schoenrich by this Government. Mr. Moffat has since been appointed consul general of the United States at Singapore, and his successor on the commission has not yet been designated. Judge Schoenrich, a lawyer of high standing, formerly a member of the Porto Rican district court, is the presiding commissioner. The commissioners are to be remunerated solely by Nicaragua.

The Department, in advising that the commission be so composed, sought only to assure the justice and impartiality of the tribunal and to make it one to which foreign Governments would be likely to look for the just consideration of the claims of their citizens.

It now appears, to the surprise of the Department, that some of the foreign ministers, notably the German, English, and French, have taken exception to this commission and have advised their nationals not to submit their claims to it.

You will explain to the Spanish Government that this commission is a purely Nicaraguan tribunal constituted by that Government to pass upon claims against Nicaragua; that in accordance with the general rule of international law regarding the exhaustion of local remedies before diplomatic representations can become appropriate, save under exceptional circumstances not appearing in the present situation, the Government of Nicaragua would appear to be within its rights in requiring that all claims should be adjudicated in the first instance by this commission; that in the very unlikely event of an actual denial of justice before this commission it obviously would be open to Spain or any other power to take up such a case diplomatically for final settlement by an international commission or otherwise; that it can hardly be supposed that Spanish or any other interests would be less safe before a Nicaraguan commission of three, two members of which are American citizens approved by this Government, than they would be before one of purely Nicaraguan personnel, which would probably have been established had not this Government secured the designation of two Americans.

This Government feels the more certain that the Spanish Government will raise no objection to this strictly Nicaraguan commission, since it is but a part of an apparently conscientious plan undertaken by the Government of Nicaragua in order to rehabilitate the finances of that country and to make its Government stable and responsible. Any disarrangement of this plan tending to defeat its purpose, which, under present conditions, seems reasonably assured, must be highly deprecated. Spain, as well as the United States, is commercially interested in the establishment of stable conditions and a responsible Government in Nicaragua and in adjacent countries.

The Department can not overemphasize the importance it attaches to the successful carrying out of the plans for the rehabilitation of Nicaragua, and it believes that all the countries commercially interested in Central America will best serve their own interests by promoting the realization of those plans.

The foregoing is for your information and guidance and anticipatory of future telegraphic instructions pending the receipt of which you will take no action in this matter.

I am, etc.,

ALVEY A. ADEE.

File No. 417.00/96.

The American Chargé d'Affaires to the Secretary of State.

No. 137.] AMERICAN LEGATION,
Managua, October 31, 1911.

I have the honor to report that on the 14th instant the National Constituent Assembly unanimously approved the decree of the Executive bearing date of the 9th instant, and embodying the amendments approved by the Department in its telegram of June 26 to the mixed commission decree of May 17 last. A certified copy of this law is herewith inclosed.

I have, etc.,

F. M. GUNTHER.

[Inclosure.]

Act of October 14, 1911, of the Nicaraguan Constitutional Assembly, approving the presidential decree of October 9, 1911, amending the act of April 4–May 17, 1911, establishing the tribunal or mixed commission.

[Translation.]

The National Constituent Assembly decrees that the following presidential decree of October 9, 1911, is approved in its entirety:

The President of the Republic, seeing that in the legislative decree of May 17, 1911, certain amendments and additions should be made to clarify and better apply its provisions, by the authority invested in him and in ministerial council, decrees:

ARTICLE 1. The preamble of said decree of May 17, 1911, shall be amended to read as follows:

The President of the Republic, having conferred with the Government of the United States as to the best mode of affording a just and equitable solution of questions concerning the validity or invalidity of all pending claims against the Government of Nicaragua, including those that originate through the cancellation or suspension of monopolies, leases, concessions, and contracts executed by prior governments of the Republic, and to guarantee to nationals and aliens equally their lawful rights—by the authority invested in him and in ministerial council decrees:

ARTICLE 2. To article 1 of the said decree shall be added the following:

The claims referred to in this article are all those claims which from any cause whatsoever may arise or may have arisen against the Government of Nicaragua from the beginning of the administration of President Zelaya until the closing of the commission, including claims which may arise out of the belligerent operations of either faction during the recent civil war. To facilitate the examination of these claims the commission is empowered to meet in its discretion in places other than in Managua, and it shall give due and appropriate notice of such meetings to the interested parties. The commission shall in its consideration of claims give precedence to claims arising out of military loans, requisitions, or exactions by either faction during the recent civil war.

ARTICLE 3. To article 2 shall be added the following:

The commissioner appointed by the Department of State shall act as president of the tribunal, and no meeting at which he or his duly appointed successor is not present shall be held, nor shall any rule or regulation be adopted or put into effect until the president of the commission shall have expressed his opinion regarding the same. All vacancies arising from whatever cause shall be filled within thirty days from the beginning of such vacancies in the same manner in which the original appointment was made.

ARTICLE 4. Article 3 shall read as follows:

All cases pertaining to the said claims shall be initiated by introduction before said tribunal or mixed commission, which shall hear, try, and judge them in all their phases; and a majority of the votes of the members shall suffice for final judgment in all cases, and in pronouncing said judgment every member of the tribunal shall vote. If any member is persistently absent and without just cause, or for any reason is incapacitated for the performance of his duties, the attending members shall notify the Government of Nicaragua, which shall thereupon declare the commissionership vacant, which vacancy shall immediately thereupon be filled as provided in article 2. The commission is empowered to employ the clerical force necessary for the conduct of its work, which clerical force shall be compensated by the Nicaraguan Government.

ARTICLE 5. Article 5 shall read as follows:

ARTICLE 5. The individuals or companies referred to in article 1, or their assigns, who shall not appear before the tribunal or mixed commission established

by this law within six months to plead, shall thereby lose their rights by default, as well as the right of indemnification, and the concessions, leases, or contracts shall immediately be considered finally forfeited, the tribunal being under obligation so to declare upon the request of the Government of Nicaragua: *Provdied, however*, That the right to oppose the cancellation or annulment of concessions, and the right to indemnity, shall not be forfeited, and the forfeiture of rights and remedies with reference thereto shall in no case be declared by the commission, except upon proof satisfactory to the tribunal that, six months prior to the motion for such judgment, the Government of Nicaragua gave in appropriate form express notice to the parties concerned of the intention of the Government to move for such judgment against them, and unless said parties shall have failed to appear before the tribunal during the said term and shall not have presented any valid excuse for such failure to appear.

ARTICLE 6. Article 6 shall read as follows:

ARTICLE 6. The President shall cancel by special decrees such contracts or concessions as may be illegal or unconstitutional. No contract or concession contemplated in articles 1 and 5 and the present article shall be canceled or annulled except on the ground that such contract or concession is illegal or unconstitutional, and no decree of cancellation or annulment shall take effect until affirmed by the commission after an opportunity for a full hearing has been given to the parties in interest and until such damages, if any, as may by the commission be found due to the concessionaires from the Government of Nicaragua shall have been paid. No cancellation or annulment heretofore decreed by the present Government of Nicaragua shall take effect until a like determination by the commission and payment of damages, if any, by the Government. Where, by reason of special equipment or experience or for any other sufficient reason, the parties from whom the concession or contract is taken are better able to carry on the legally proper part of such concession or contract than a new concessionaire, such parties if responsible shall be given preference as to any new grant touching the same matter, which new grant shall be conferred in as liberal terms as may be consistent with the law and the national welfare.

ARTICLE 7. To article 9 shall be added the following:

The salary of the president of the tribunal shall be 10,000 dollars gold besides the sum of 2,000 dollars gold for expenses.

ARTICLE 8. Article 14 shall read as follows:

ARTICLE 14. The six months period above mentioned shall begin to run from the date on which the actual notice of the annulment or cancellation of the concession is given to the concessionaire or contractor, provided that in no case shall such six month period be held to expire at a date earlier than six months from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims; and provided that as to all other claims the period shall begin to run from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims, which date shall be notified by proper publication in the official gazette for a period of thirty days beginning fifteen days before said date of opening and continuing for fifteen days after said date of opening.

ARTICLE 9. The following new article shall be added to the said decree:

ARTICLE 15. The Government of Nicaragua shall accept the decisions of the tribunal as final and binding adjudications of the claims passed upon by the tribunal, and undertakes to pay all awards made by said tribunal against the Government.

Enacted at Managua, in the Hall of Sessions, the 14th day of October, 1911.

Promulgated October 17, 1911.

Certified to the American Chargé d'Affaires October 20, 1911, by the Ministro de Gobernacion ad interim, Luis Mena.

File No. 417.00/88.

The American Ambassador to Great Britain to the Secretary of State.

[Telegram—Paraphrase.]

LONDON, *November 2, 1911.*

Sir Edward Grey writes me that when the foreign office first heard of the proposed establishment of the Nicaraguan commission, they told Mr. Carden that British claimants might avail themselves of it if they desired, but in that case the foreign office must hold aloof and reserve the right to intervene diplomatically if occasion arose. Sir Edward says he will have to consider inviting British claimants to refer claims to arbitration if settlement can not be made by direct negotiations with Nicaragua.

His position therefore is that while he places no obstacle in the way of British claimants who may decide to present their claims before the commission, he can not accept the commission as a bar to diplomatic intervention looking to arbitration. Sir Edward does not attach exaggerated importance to the questions that have arisen in Central America from time to time in which our interests have seemed to be divergent, for he believes that by the exercise of a little patience and good will these difficulties will easily be smoothed over.

REID.

File No. 417.00/89.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *November 6, 1911.*

The President has been informed by the secretary of the German Legation that his Government does not recognize the mixed commission, "for political reasons," and that he believes the other nations will not recognize it, adding that his Government is disposed, however, to arrive at an amicable settlement of German claims.

GUNTHER.

File No. 417.00/89.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *November 10, 1911.*

The Department is not disposed to counsel the Nicaraguan Government to resist demands of European countries through diplomatic channels for the direct settlement of their claims; but if the Nicaraguan Government of its own initiative should decide that European claimants must first exhaust the remedies afforded by the Nicaraguan courts or other local tribunals, including the claims commission, the Department believes that international law and practice furnish ample precedents therefor.

You will have in mind that if the British claims are paid, and if direct settlement is made of the other European claims, preferential treatment over American claims will thereby be given them, since this Government has consented, because of its friendly feeling toward Nicaragua, to the presentation of American claims in the first instance to the claims commission.

KNOX.

File No. 417.00/92.

The Nicaraguan Minister to the Secretary of State.

[Translation.]

LEGATION OF NICARAGUA,
Washington, November 7, 1911.

EXCELLENCY: I have received telegraphic instructions from my Government to-day to inform your excellency that the Government of Nicaragua has issued a decree declaring vacant the commissionership heretofore held by Mr. Moffat, and to ask therefore that your excellency will be good enough to appoint a commissioner to fill the vacancy in accordance with law relative to the formation of the mixed commission recently enacted by the Constituent Assembly.

I avail, etc.,

SALVADOR CASTRILLO.

File No. 417.00/92.

The Secretary of State to the Nicaraguan Minister.

No. 13.] DEPARTMENT OF STATE,
Washington, December 5, 1911.

SIR: The Department is in receipt of your note of the 7th ultimo, stating that the Government of Nicaragua has issued a decree by which the office of member of the Nicaraguan Mixed Claims Commission heretofore held by Mr. Thomas P. Moffat, is declared vacant, and that you have been instructed by your Government to ask the Secretary of State to designate Mr. Moffat's successor.

The Department's note to you of the 2d,[1] answering the note of the 8th ultimo from the Nicaraguan minister for foreign affairs to the Secretary of State,[1] has already informed you that Mr. Arthur B. Thompson, of this city, has been recommended by the Secretary of State for appointment by the Nicaraguan Government to fill the vacancy referred to.

Accept, etc., P. C. KNOX.

File No. 417.00/95.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *November 17, 1911.*

In regard to the settlement of European claims other than British, and referring to your telegram of November 10, the Nicaraguan

[1] Not printed.

Government seems disposed on its own initiative to consider sending a circular note to the interested powers, making clear that they must first exhaust the remedies afforded by the Nicaraguan courts, including the mixed claims commission. The President, however, hesitates to take this initiative until assured of the support of the United States Government, for he recalls how on past occasions Nicaragua has taken this position only to be brought to humiliating terms by the presence of foreign vessels.

The President had, before receipt of your November 10, agreed to a compromise upon all British claims in toto; and in order to avoid giving them precedence over American claims his Government would submit the compromise to the mixed commission.

GUNTHER.

File No. 417.00/101.

MANAGUA, *November 28, 1911.*

The President still hesitates to send the circular note referred to in my November 17. Meantime a German subject, Julius Weist, and an Italian subject, Bissio, each having a war claim against the Nicaraguan Government (the German claim pending before the mixed commission and the Italian claim about to be presented to it), have both withdrawn their claims, the German under instruction of the German Legation and the Italian on the advice of the Italian consul here. Both will seek a direct settlement with the Nicaraguan Government.

GUNTHER.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *December 2, 1911.*

The Department's November 10 should be a sufficient response to your November 28, and instruction for your guidance regarding the preferential treatment of European claims and the advisability of sending the circular note.

WILSON.

WASHINGTON, *December 2, 1911.*

As successor to Moffat on the Nicaraguan Mixed Claims Commission, the department proposes Arthur R. Thompson, and has officially notified Castrillo thereof. Mr. Thompson was formerly engaged by this Government in the trial of cases before the Spanish Treaty Claims Commission, and is now practicing law.

WILSON.

File No. 417.00/108.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *December 5, 1911.*

The Nicaraguan Government yesterday appointed Arthur R. Thompson on the mixed claims commission.

GUNTHER.

File No. 417.00/115.

No. 159.]

AMERICAN LEGATION,
Managua, December 16, 1911.

SIR: I have the honor to report that the Nicaraguan Government of its own initiative having reached the conclusion that European claimants should first exhaust the remedies afforded by Nicaraguan courts, including the mixed claims commission, before presenting demands through diplomatic channels, has forwarded to the ministers to Central America of France, Germany, Great Britain, Italy, and Spain the identic note of which I inclose herewith a copy and translation. Copies of this note have been delivered to all consular representatives in this city, have been published in the local newspapers, and forwarded to the other Governments in Central America for their information.

I have, etc.,

F. M. GUNTHER.

[Inclosure.]

Identic Circular Note of the Nicaraguan Government to European Powers.

[Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Managua, Nicaragua, December 9, 1911.

Mr. MINISTER: Owing to the grave situation, aggravated by a long civil war, in which the country found itself as the result of a prolonged period of administrative abuses which culminated in the illegal distribution of the national wealth and in the immoderate augmentation of the debt through claims and concessions onerous to the country, some in the hands of foreigners, there has devolved upon the Government which emerged from the revolution the fundamental and immediate duty of giving its especial attention to political and constitutional reorganization of the Republic and the rehabilitation of its finances upon a stable basis, having in mind the refunding of its debt and the meeting of its obligations through a just and equitable settlement of all pending economic questions.

To this end a loan has been contracted in the United States to afford the Republic the necessary means for the prompt fulfilment of its obligations, securing at the same time permanent domestic peace and welfare.

In order to accomplish such purposes, the Government of the Republic in exercise of its sovereign rights, and by a decree of the National Constituent Assembly sanctioned by the Executive the 18th of May of the current year, established in this capital a tribunal or mixed claims commission which will ascertain and adjudicate, without further recourse, all pending claims against the Government of Nicaragua, including those which may arise out of the cancellation or suspension of the monopolies, concessions, leases, or whatever other classes of contracts made by former Governments of the Republic.

Subsequently, and by a law of the same National Constituent Assembly with the due approval of the Executive on October 9 of the current year, various amendments to the preceding decree were made, some of which limit the scope of the mixed claims commission to cognizance of such claims as may arise or have arisen against the Government of Nicaragua from the beginning of the administration of President Zelaya until the commission closes its work, including claims which arose out of the belligerent operations of either faction during the recent civil war, giving preference, in the order of examination, to those arising out of military loans, requisitions or exactions of the factions during the recent civil war; empowering the commission, whenever it may deem

best, and to facilitate the better examination of these claims, to meet, after due notice to the parties interested, in places other than the capital.

For the better understanding of your excellency I herewith inclose a copy of the decree establishing the mixed claims commission, and a copy of the decree amendatory thereof, seizing this opportunity to call to the attention of your excellency the fact that the mixed claims commission enjoys sole jurisdiction to declare valid or invalid all the claims referred to.

In establishing the tribunal or mixed claims commission in its present form the Government of Nicaragua believed it had found a satisfactory solution of pending claims, and of safeguarding equally the legitimate interests of the State and of foreign or domestic claimants.

The high respectability of the members that compose it, and the significant fact that two of its judges are foreigners of recognized ability and of unquestioned integrity, neither of whom had any part in the controversies and struggles of which unhappily the country has been the scene during a long period of political and economic disorganization, vests the tribunal with a character of such unimpeachable impartiality that it could hardly become a question for discussion.

That foreigners must observe the laws of the country wherein they reside is a principle of public law. Article 13 of the Nicaraguan constitution of 1893 provides that foreigners can not make claims or exact indemnity from the State except in the cases and in the form permitted to Nicaraguans; and article 8 of the constitution of 1905 provides that Nicaragua is under no obligation to foreigners and recognizes no responsibilities other than those which by the constitution and law it assumes in reference to Nicaraguans. Applying then the principles laid down, it is evident that foreigners on entering the republic submit themselves thereby to the laws in force on an equal footing with nationals, and under no circumstances can they, in violation of the law, have any rights that would give them advantage over Nicaraguans.

It is also an admitted principle of international law that parties who are aggrieved by acts of the public authorities which they consider unlawful, are bound to exhaust every legal means given by the constitution of the country to obtain due reparation and justice. But if they, being foreigners and perfectly entitled to appeal to the courts of law, neglect to do so, they are not entitled to invoke the intervention of their government to obtain for them indemnity. Protests, whether made by the parties themselves or by their representatives, can not be held to supply the place of an appeal to the tribunal competent to deal with the subject matter, nor do they render the right of intervention complete. It is in accordance with these principles that article 11 of the constitution of 1905 provides that foreigners can not have recourse to diplomatic channels except in cases of denial of justice.

This being a generally accepted doctrine I feel that no further explanation is necessary, especially because there is no international law obliging a nation to take upon itself the collection of the claims of its citizens against another nation when within the reach of these citizens are sufficient means for obtaining justice in the country without the intervention of their government.

Hence, and after mature consideration upon so important a subject, the Government of Nicaragua deems it proper to inform the interested powers that pending claims against the Government of Nicaragua, including those which may arise out of the cancellation or suspension of monopolies, concessions, leases, or whatever other class of contracts made from the beginning of Gen. Zelaya's administration until the closing of the commission, as well as claims which may be presented as a result of the operations of either belligerent faction during the recent civil war, must be submitted for ascertainment and adjudication to the tribunal or mixed claims commission that was established for this purpose by decree of May 17, 1911, whenever said claims by their nature fall within the scope of its jurisdiction; it being evident from the foregoing that only in the remote case of not being heard, which is not to be feared, given the lofty attributes of impartiality and integrity of this high tribunal of the Republic, would there be cause for resorting to the extreme means of diplomatic negotiation for the determination of these claims.

I avail, etc.,

DIEGO M. CHAMORRO.

POLITICAL AFFAIRS: RECOGNITION OF CONSTITUTIONAL PRESIDENT ESTRADA BY THE UNITED STATES. PROCLAMATION OF A CONSTITUTION BY THE CONSTITUTIONAL ASSEMBLY; ITS REJECTION BY PRESIDENTIAL DECREE; DISSOLUTION OF THE ASSEMBLY AND CALL FOR NEW ELECTIONS. RESIGNATION OF PRESIDENT ESTRADA. SUCCESSION OF VICE PRESIDENT DIAZ AS PRESIDENT; HIS RECOGNITION BY THE UNITED STATES. CONVENING OF SECOND CONSTITUTIONAL ASSEMBLY. ELECTION BY THE ASSEMBLY OF GEN. MENA AS CONSTITUTIONAL PRESIDENT FROM JANUARY 1, 1913. REVOLUTIONARY PLOTS.[1]

File No. 817.00.

The President of the United States to the President of Nicaragua, Juan J. Estrada.

[Telegram.]

THE WHITE HOUSE,
Washington, January 1, 1911.

I send your excellency my most cordial felicitations for the New Year, with which I hope will begin an era of progress, peace, and prosperity for the people of Nicaragua. I congratulate you upon your assumption of the presidency by popular mandate unanimously expressed through the Assembly recently elected, and I assure you, and through you the Government and people of Nicaragua, of the sincere sympathy and friendship of the Government and people of the United States in the work of regeneration which we hope will be so successful. I add my wishes for your own personal welfare.

WM. H. TAFT.

File No. 817.00.

The American Consul at Managua to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, January 1, 1911.

Estrada's message praises loyalty of Conservatives to the revolution; the President declares he will surround himself with them, but will make his administration a national and not a party one. Complete religious freedom; freedom of the press within proper limits; constitutional prohibition of executive influence with the judiciary and its independence, which the President declares he will respect as sacred. Noninterference in Central American political affairs. Gratitude to the United States. Modern school system; gradual decrease and disarmament of the Army beyond adequate police requirements; agricultural development; construction of a railroad to the Atlantic coast; reduction of import duties and abolition of export duties; negotiation of a loan through the good offices of the United States; currency reform; strict economy in the administration of the Government.

MOFFAT.

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[1] See Foreign Relations 1910, p. 767.

The Secretary of State to the American Minister.

DEPARTMENT OF STATE,
Washington, January 20, 1911.

SIR: The President having appointed you to be envoy extraordinary and minister plenipotentiary of the United States of America to Nicaragua, I inclose your commission.

In order that you may have before you a concise account of the events which have led to the resumption of diplomatic relations with the Republic of Nicaragua, and of the considerations which have prompted this Government to recognize the Government of Gen. Estrada, I inclose copies of certain pertinent documents and call to your attention the following facts connected with the recent history of our relations with Nicaragua:

On December 1, 1909, in a note addressed to the Nicaraguan chargé d'affaires, transmitting to him his passports, the Secretary of State declared that the Government of Gen. Zelaya, by its intolerable abuses and excesses, had not only forfeited the esteem and support of its own people, but also, by a series of petty annoyances and studied insults to the United States, culminating in the illegal and unwarranted execution of two American citizens, had exhausted the oft-tried patience of this Government so that under the circumstances the President no longer felt for the Government of Gen. Zelaya the respect and confidence which would make it appropriate further to continue diplomatic relations. Shortly thereafter Gen. Zelaya fled from the country on board a Mexican warship, his last act being the dictation to the legislature of the selection of his successor, Dr. José Madriz, in a manner violative of the provisions of the Nicaraguan constitution.

On October 11, 1909, Gen. Juan J. Estrada, governor of one of the eastern Provinces of Nicaragua, with headquarters at Bluefields, issued a manifesto reciting the evils of the Zelaya administration, proclaimed himself the provisional president of the Republic, and solicited the recognition of the United States. The Department, following its usual practice in such cases, made no response to his request, but shortly thereafter notified the leaders of the revolution, as it did the representative of Zelaya, that the Government of the United States would hold strictly accountable for the protection of American life and property the factions *de facto* in control of the eastern and western portions, respectively, of the Republic of Nicaragua, for Gen. Estrada had already gained military control of the Nicaraguan territory bordering on the Atlantic, representing substantially half of the area of the Republic. Winning new accessions to his ranks on his march westward, he eventually, after several temporary repulses, took and occupied the cities of Granada and Managua, at which latter place he received from his brother, José Estrada, such remnants of authority as had been left by Dr. Madriz upon his precipitous flight from the country.

Being in control of the capital, and having suppressed all organized opposition, Gen. Juan J. Estrada, on September 10, 1910, again sent a telegram to the Department pledging his Government to certain reforms and requesting the dispatch of a commissioner to Nicaragua to investigate and report on the situation, with special reference to the question of recognition. In consequence thereof, Thomas C. Dawson, Esq., minister to Panama, was instructed on

October 12 to proceed to Managua as special agent. He was cordially received in that capacity by the *de facto* Government and supplied with full information, including copies of four several agreements signed at Managua October 27, 1910,[1] by the leaders of the revolutionary party, Señores Estrada, Diaz, Mena, and Chamorro, pledging themselves to carry out the announced policies of the Estrada Government, pledges which were reaffirmed in a note dated November 5, 1910, from the minister for foreign affairs of the Provisional Government to Mr. Dawson.

From an inspection of the above-mentioned documents you will note the very gratifying desire of the officials connected with the *de facto* Government of Gen. Estrada, which had then been recognized as such by the United States, to restore civil peace and economic order in Nicaragua by the establishment of constitutional guaranties and by the rehabilitation of the finances of that country and their oft-repeated request for the friendly assistance of the United States in carrying out such laudable purposes.

The Department is glad to bear witness to the favorable impression created by these officials in performing in such good faith certain of their promises and in renewing their determination to execute without unnecessary delay the undertakings which remain to be fulfilled. In whatsoever may contribute to the full realization of its high aims, the restored Republic of Nicaragua can rely unhesitatingly upon the cordial and loyal support and cooperation of the Government of the United States and the warm sympathy of the American people, whose desire is to see peace, justice, prosperity, and ordered liberty prevail in the Republic now being reconstituted as in all of Central America.

Among the things already accomplished by those at present in authority in Nicaragua may be mentioned the convocation of the people of the Republic for the purpose of holding elections, with the object of naming members of a constituent assembly, in November last, the elections having been conducted with proper safeguards for an orderly, free, and honest expression of the popular will, and in a manner conducive to general acceptance of the results by the people of Nicaragua; the constituent assembly has met in general session and has elected Gen. Juan J. Estrada constitutional president and Señor Adolfo Diaz constitutional vice president for the term of two years beginning January 1, 1911, and the said two officials have been duly inducted into office.

Upon receipt of this information the President sent a telegram of cordial felicitation to Gen. Estrada, congratulating him upon his assumption of the presidency by popular mandate, unanimously expressed through the constituent assembly, and assuring him of the sincere sympathy and friendship of the Government and people of the United States in the work of regeneration, which it is hoped will prove to be the beginning of an era of progress, peace, and prosperity for the people of Nicaragua.

Of the pledges which remain to be fulfilled your attention is directed to the following:

1. The constituent assembly, now in session, is to proceed to the adoption of a constitution tending to the abolition of illegal or op-

[1] See inclosures.

pressive monopolies and the prohibition of new ones, and guaranteeing the legitimate rights of foreigners. And in addition the constitution is to contain provisions for the free popular election of the constitutional president who will succeed Gen. Estrada at the expiration of his present term of office.

2. The Government of Nicaragua will continue in its expressed purpose to prosecute and punish those persons truly responsible for the death of Lee Roy Cannon and Leonard W. Groce, will carry out the necessary judicial proceedings and will make every effort to secure the punishment of all guilty persons involved, and will justly indemnify the families of the deceased.

3. All liquidated claims are to be paid as they now stand determined and agreed upon between the former administrations of Nicaragua on the one side and foreign nations or the citizens thereof on the other, the Government of Nicaragua paying such amounts as by virtue of those settlements are found due.

4. All unliquidated claims, including such as may arise out of the abolition or discontinuance of the monopolies, concessions, leases, and other contracts created during prior administrations, shall be submitted to a claims commission, and in order to give a guaranty of impartiality to foreigners in the adjustment of these matters the Government of Gen. Estrada has expressed a desire to place itself in accord with the Department in the formation of a tribunal which is to investigate such claims, and to this effect has submitted for the approval of the Department a project for a commission composed of one Nicaraguan and one American citizen recommended by the Government of the United States, this commission to give its judgment by unanimity, submitting in case of disagreement to the decision of a third, to be appointed by the two commissioners by mutual accord.

To this proposal this Government has assented and the commissioner selected by the United States is Thomas P. Moffat, Esq., to whom you will give all proper information and support conformable to your duties as minister.

5. A financial expert designated by the Government of the United States is to be appointed for the purpose of advising, confidentially, with the Government of Nicaragua, through its minister of hacienda, regarding a plan for the complete rehabilitation of the finances of that country, including the placing of a loan on terms satisfactory to the interested parties.

The name of the expert designated by this Government is Ernest H. Wands, Esq., and for his information and guidance you will give him access to the following documents, inclosed herewith,[1] to wit, copies of pertinent papers in regard to the existing loan of the Dominican Republic and copies of similar documents in regard to the proposed loans to Honduras and Liberia.

6. The Government of Nicaragua is to proceed at the earliest possible date to the signature of a convention with the United States which shall authorize the contemplated bankers' loan contract, the terms of the latter to be approved thereafter by both Governments, and to make provision, among other things, for the service of the loan secured by a certain percentage of the customs receipts of the Republic collected in a manner satisfactory to both Governments.

In this connection you are informed that Dr. Salvador Castrillo, jr., who has been received by the President as the Nicaraguan envoy extraordinary and minister plenipotentiary, has requested of his Government special full powers authorizing and enabling him to sign the desired convention, to the negotiation of which the Government of the United States, in view of the expressed desire of the Government of Nicaragua, is disposed to proceed.

I inclose a copy of the financial convention with Honduras,[1] a counterpart of which, it is believed by the department, will answer all the requirements of the present case.

Relying upon the present Nicaraguan Government's loyal support of the Washington conventions and their peaceful and progressive aims, the Government of the United States will, in case of need at any time in the future, rely also upon the cooperation of the Government of Nicaragua to seek some arrangement whereby the beneficial ends sought by those conventions may be effectively guaranteed.

The archives of the legation will afford information concerning other questions which have engaged the attention of the two Governments, and further instructions will be sent you as required.

You are instructed to proceed to your post by way of Salina Cruz, Mexico, where you will go aboard the U. S. S. *Vicksburg*, which has been designated by the Navy Department, at the direction of the President, to convey you to Corinto. You will be accompanied by Mr. Wands, the financial expert herein above mentioned, and by Franklin Mott Gunther, Esq., who has been appointed secretary of the legation.

Entire confidence is entertained that the affairs of the legation will prosper at your hands, and that the formal relations between the two Governments having been resumed, the friendly intercourse and cordial intimacy which so long existed in the past, and which promise so auspiciously to develop and grow closer in the future, will be fostered during your incumbency.

You will be guided in your efforts toward this end by the policies and desires of this Government as expressed herein.

I am, etc.,

P. C. KNOX.

[Inclosure 1.]

Translations of agreements signed by Provisional President Estrada and others.

AGREEMENT No. 1.

After numerous conferences the undersigned have agreed upon the following political and economic bases for the reorganization of the country:

1. The convocation of the people of the Republic to proceed to hold elections with the object of electing the members of a Constituent Assembly in November next, and that they will assemble in the following December and will elect a President and Vice President for a period of two years, on the basis of a democratic constitution.

2. To lend all support in the said Constituent Assembly to the candidacy of Gen. Juan José Estrada for President pro tempore and to that of Adolfo Diaz for Vice President for the said term of two years.

3. The Constituent Assembly will adopt a constitution tending to the abolition of monopolies, guaranteeing the legitimate rights of foreigners, and in addition

[1] Not printed.

will convoke the people for the election of constitutional President corresponding to the period following upon that previously mentioned.

Signed in triplicate at Managua, October 27, 1910.

JUAN J. ESTRADA.
ADOLFO DIAZ.
LUIS MENA.
E. CHAMORRO.

AGREEMENT No. 2.

1. We have likewise agreed that all unsettled claims proceeding from the annulment of contracts and concessions, associated with the previous régime of Nicaragua will be submitted to the impartial examination of a mixed commission appointed by the Government of this Republic in harmony with that of the United States.

2. The election and number of its members and the plan of its proceedings will be in conformity with the agreement with the American agent, after submitting it to the consideration of the Department of State, which must be done before signing it.

3. In the same way we obligate ourselves to pursue and punish the executioners and accomplices in the death of Cannon and Groce. Concerning the indemnity that must be paid to the families of both victims, it will await the result of these proceedings.

Signed in duplicate at Managua, October 27, 1910.

JUAN J. ESTRADA.
ADOLFO DIAZ.
LUIS MENA.
E. CHAMORRO.

AGREEMENT No. 3.

In order to rehabilitate the public finances and to pay legitimate claims, both foreign as well as national, the good offices of the American Government will be solicited, with the object of negotiating a loan, which will be guaranteed by a certain per cent of the customs receipts of the Republic, collected in accordance with the terms of an agreement satisfactory to both Governments.

Signed in triplicate at Managua.

JUAN J. ESTRADA.
ADOLFO DIAZ.
LUIS MENA.
E. CHAMORRO.

AGREEMENT No. 4.

The signers, desirous of duly complying with the program of the revolution of October 11, have agreed to designate at an opportune time and by a majority a candidate for constitutional President of the Republic and another for Vice President, corresponding to the period following the presidency pro tempore of Gen. Estrada, obligating themselves to take into consideration that the one chosen must represent the revolution and the Conservative party.

The subscribers obligate themselves in order that, in addition to the established laws guaranteeing a free election, there will be no concentration of armed forces of the Government in any point of the Republic other than shall be necessary for the preservation of order and proper policing.

They add that Gen. Estrada can not be a candidate for the new period, or that which follows the provisional one.

Also it is agreed that the Government to be established in Nicaragua must not permit, under any pretext, the Zelayista element in its administration.

Managua, October 27, 1910.

JUAN J. ESTRADA.
FERNANDO SOLORZANO.
LUIS MENA.
E. CHAMORRO.
ADOLFO DIAZ.

[This "Agreement No. 4," being one affecting Nicaraguan politics, but not international relations, is not referred to in the note of the minister for foreign affairs, which touches only the first three "Agreements." Signed originals of all were left in the legation archives. T. C. DAWSON.]

[Inclosure 2.]

[This inclosure is identical with the first item of the foregoing correspondence entitled "Establishment of a tribunal or mixed commission," etc., namely, the note of November 5, 1910, from the Nicaraguan minister for foreign affairs to the American minister, Mr. Dawson.]

[Inclosure 3.]

The American Special Agent to the Nicaraguan Minister for Foreign Affairs.

AMERICAN CONSULATE,
Managua, Nicaragua, November 5, 1910.

Mr. MINISTER: I am in receipt of your important note of to-day setting forth the program of your excellency's Government for the maintenance of peace, order, and liberty; the reestablishment of constitutional and democratic government, the assuring of honest and economical administration, the rehabilitation of the finances, the faithful performance of international obligations, and the consequent removal of danger of outside pressure.

The Government of the United States is profoundly gratified at this declaration of principles and policies. The good offices of the United States Government are at the disposition of your excellency's Government in regard to its proposed loan, and it will welcome any further opportunity to lend its good offices whenever in your excellency's Government's opinion they would be beneficial to Nicaragua. I cherish the conviction that the good relations now so happily entered into with this Government and my own will continue uninterrupted, thus giving assurance that the two sister Republics will each always enjoy the respect and warm friendship of the other on frank, cordial, and equal terms.

My Government has already been briefly informed by telegraph of the principal provisions of the Government's program, now fully set forth in the present note, and has authorized me to express its gratification. There will doubtless arise various details to be arranged later and I have cabled my Government suggesting that the financial expert, whose presence you ask for, be sent at once.

Urgent official duties elsewhere make it necessary for me to absent myself shortly. Until my return Mr. Thomas P. Moffat is charged by me with the matters between your excellency's Government and this agency. I bespeak for him the same confidence and courtesy that has been shown me.

I avail, etc.,

T. C. DAWSON.

File No. 817.00/1525.

The Acting Secretary of State to the Secretary of the Navy.

DEPARTMENT OF STATE,
Washington, February 15, 1911.

SIR: I have the honor to transmit for your information and for consideration with reference to the advisability of keeping a naval vessel at Corinto paraphrases of two telegrams from American consular officers reporting on recent political events in the Republic of Nicaragua:

(From Consul Johnson, Corinto, February 13, 9 a. m.)

Acting under orders from Managua, the commandant here has recruited 25 men and sent them to Paso Caballos, where he will also place a field gun.

(From Consul Moffat, Managua, February 13, 10 a. m.)

Two million cartridges, 10,000 rifles, and the Government magazines containing them destroyed to-day by fire, and the people are greatly excited. Documents were found last Saturday showing Zelayista Liberal's plot to capture Leon and Managua as the first move of a revolution. The fire in the magazines may be a part of the plot. The country is under martial law and President Estrada is investigating. All Conservatives and many Liberals have assured him of their support. Several Zelayista Liberals, among them Felix Pedro Zelaya, Rodolfo Espinosa, Luciano Gómez, Octavio Gómez, José Dolores Gómez, and Manuel Maldonado, have been arrested. I consider the situation well in hand.

I have, etc.,

HUNTINGTON WILSON.

File No. 817.00/1540.

The American Minister to the Secretary of State

[Extract.]

No. 7.] AMERICAN LEGATION,
Managua, Nicaragua, February 25, 1911.

SIR: I have the honor to report that I have gathered the following impressions as to political conditions in Nicaragua at the present time:

Estrada has given a great deal of thought to the situation and has decided that the only hope for Nicaragua is close alliance with the United States. That his course will be antagonized by practically all the Central American Republics is already beginning to be proved by influences felt here. Extracts from Costa Rican papers are especially bitter and the action of Honduras on the American loan is being kept to the front. Guatemala's attitude is understood to be strongly against Estrada's policy and Salvador is understood to be somewhat less openly against him. In addition to this, the natural sentiment of an overwhelming majority of Nicaraguans is antagonistic to the United States, and even with some members of Estrada's cabinet I find a decided suspicion, if not distrust, of our motives. To make the situation more critical for Estrada is the activity of the Zelayistas, who are constantly scheming and plotting his overthrow, as evidenced by the attempted blowing up of the Government palace and arsenal on the day of my arrival at Corinto. * * * Estrada believes he can force through his policies until such a time as they will justify themselves in the face of all difficulties, provided he can move without delay and can count on the earnest support of the United States. Whether or not he can succeed is, I must confess, in my opinion somewhat problematical, but it is at least worth a thorough trial. Not again for a long time may come another such opportunity to prove our good faith in Central America.

In his talk this morning President Estrada expressed a desire to learn the possible attitude of the Department on several questions, among them being the guaranteeing by the United States of free elections in Nicaragua and the proposition of the disarmament of the five Central American Republics. On the latter proposition he said that the armies now maintained by the five Republics could only be of use as against each other or for the illegal support of some Government, and that, in his opinion, all that was necessary was a com-

petent force for the policing of the respective countries. His idea seemed to be that the United States should take the laboring oar in bringing about such a result, but intimated that he was willing to take the initiative by requesting it. * * * In any event, the loan to Nicaragua should be delayed as little as possible.

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1546.

No. 13.] AMERICAN LEGATION,
Managua, March 4, 1911.

SIR: I have the honor to report that I have had two very important private conferences with President Estrada in which he has outlined specifically the policy he desires to pursue in Nicaragua. The matter is, in my opinion, of such vital importance that I have decided to request Mr. Ernest H. Wands, the financial expert who accompanied me to Nicaragua and who leaves for Washington tomorrow, to lay this matter before you in person. I have decided on this course after careful consideration, and have made Mr. Wands fully acquainted with the reasons that have governed me. I have also endeavored to give Mr. Wands my opinion on the points in question, with a request that he repeat them to you, and I sincerely hope that, without inconvenience to yourself, you may be able to give him a full hearing.

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1556.

[Extract.]

No. 21.] AMERICAN LEGATION,
Managua, March 27, 1911.

SIR: I have the honor to report that political conditions here still remain very unsettled. Gen. Moncada is apparently trying to divide the Conservative party and a very bitter newspaper controversy is in progress between him and Chamorro.

Gen. Mena, minister of war, is still in control of all the arms and ammunition, but it seems that the only member of the cabinet in whom President Estrada has implicit confidence is Adolfo Díaz, minister of hacienda and Vice President.

The constitution of the mixed commission as directed by the Department has all been agreed to by the Nicaraguan Government and the decree constituting same should have gone to the assembly on yesterday, but a delay was caused by the absence of the foreign minister from the city. * * *

As the matter now looks to me President Estrada is being sustained solely by the moral effect of our support and the belief that he would unquestionably have that support in case of trouble. Estrada is unquestionably determined to carry out his policy of seeking our help as he has outlined it, and I believe that he will be able to do so, although the element of uncertainty in the matter is the possibility of his resigning, as I am reliably informed he has at-

tempted to do once since I have been here, the resignation being torn up by a friend after having been written out. * * *

When the loan is negotiated I feel that some safeguard should be thrown around it to insure its proper expenditure. Otherwise I do not believe that President Estrada will be able to control the situation and prevent its waste. In this view President Estrada himself concurs. * * *

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1562.

[Extract.]

No. 28.] AMERICAN LEGATION,
Managua, April 6, 1911.

SIR: I have the honor to report that for some time past, in fact ever since I arrived at this post, Gen. Emiliano Chamorro, who in the elections had secured a majority of the Constitutional Assembly, has been using his power to attack and endeavor to weaken the administration of President Estrada, * * * bring about his retirement from the presidency and the succession of himself, Chamorro. * * * Finally it was rumored that the Assembly would endeavor to hurriedly finish and proclaim the constitution and, voting itself into a congress, adjourn as a constitutional assembly. And in order to provide against any action that President Estrada might take, it passed an article authorizing Congress to meet in any city of the country. This coming to the knowledge of the president on the morning of April 4 last, through the minister of the interior (Gobernación), he sent a message to the Assembly stating his objections to the constitution and requesting a reconsideration of certain points in accordance with the announced principles of the revolution. On the receipt of this message the Assembly ignored it and the majority members began at once to sign a prepared copy, the friends of President Estrada having in the meantime withdrawn from the body. After the constitution was signed and proclaimed by the president of the Assembly the president's message was read and tabled as having arrived too late.

The President then issued a decree in which all the members of the cabinet, except don Pedro Chamorro, an uncle of Gen. Chamorro, joined, dissolving the assembly and calling elections for another assembly to be held on April 16 next, the new body to assemble in Managua on May 1 next, and vetoing or rejecting the constitution. * * *

Throughout all this I took the position that I could in no way interfere with matters that were purely internal, but counseled harmony and used every endeavor to persuade Chamorro to support Estrada, as he was pledged to do, but to no avail; on April 4 I saw Chamorro at least six times. President Estrada was at all times ready to meet Chamorro more than half way, and had there been the slightest disposition on the part of the assembly to compromise, the whole matter could have easily been arranged.

On the whole, I feel that all pending negotiations between the United States and Nicaragua will be greatly expedited by the President's action, and I am convinced that Chamorro would never have

allowed any ratification of the loan that did not give him control of its expenditure.

I have, etc., ELLIOTT NORTHCOTT.

File No. 817.00/1550.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *April 8, 1911.*

Your April 4 and April 5.[1] While the policy adopted by President Estrada under the circumstances meets with the approval of this Government, you will nevertheless make every effort during this crisis to impress upon the party leaders the fact that by their agreements transmitted to Dawson they have assumed a responsibility toward this Government of working harmoniously and in a conciliatory spirit. The said agreements led to the election of President Estrada and the resulting recognition of his Government by that of the United States. The responsibility under those agreements applies especially to the approaching free elections. For now that the financial operations for the rehabilitation of that country—the first necessity for its peace and progress—are begun any delay in the said elections or the failure of the new constitutional assembly to meet promptly thereafter might gravely jeopardize the future of Nicaragua.

KNOX.

File No. 817.00/1546.

The Acting Secretary of State to the American Minister.

DEPARTMENT OF STATE,
Washington, April 21, 1911.

SIR: The Department acknowledges the receipt of your dispatch No. 13 of March 4 last reporting that you had two very important private conferences with President Estrada, in which he had outlined specifically the policy he desires to pursue in Nicaragua, stating that as the matter was in your opinion of such vital importance you had decided to request Mr. Ernest H. Wands, the financial adviser of the Nicaraguan Government, who was about to leave for Washington, to lay this matter before the Department in person. Mr. Wands has now submitted to the Department an outline of President Estrada's ideas and wishes.

You will avail yourself of an early opportunity to inform President Estrada confidentially that this Department greatly appreciates the renewed evidence of the cordial and friendly relations existing between the two Governments, which is afforded by this communication of his wishes as presented by Mr. Wands.

As President Estrada is already fully aware, it is the sincere wish of this Government to do all that it properly can to assist the people of Nicaragua in securing and maintaining an efficient, conciliatory, stable, and democratic government, since thus only can the peace and prosperity of the people of Nicaragua be fully attained. The manner

[1] Telegrams conveying news more fully reported in dispatch No. 28, above.

in which this Government can be of assistance to the people of Nicaragua in securing these ends must inevitably to a great extent depend upon future circumstances which it is not possible to anticipate, but this Government believes that the surest course to secure the future peace and prosperity of Nicaragua lies in the strict fulfillment of the program laid down in the note dated November 5, 1910,[1] addressed to Mr. Dawson, the special agent to Nicaragua, by the Nicaraguan minister for foreign affairs, and of the agreements dated October 27, 1910,[1] signed by President Estrada and other political leaders, of which copies were handed to Mr. Dawson.

The Government of the United States has been gratified to learn that President Estrada's Government has been proceeding along the lines indicated by this program, and confidently expects that the financial rehabilitation of Nicaragua through the loan which it is hoped will soon be consummated, and the settlement by the mixed commission, which is about to begin its labors, of the numerous serious questions arising from pending claims, will have far-reaching effects in securing the removal of strife and dissension and in assuring peace, stability, and prosperity in Nicaragua.

Regarding President Estrada's wish to be relieved of the obligation of maintaining a representative at the Central American court, it is the constant desire of this Government to see the Washington conventions, by one of which this court was created, faithfully executed in letter and in spirit in the belief that in the conscientious observance of those conventions lies the stability and cordial relationship between the five States which the Government of the United States so earnestly desires to see maintained and which in bringing about the conference which framed the Washington conventions it exerted friendly influence to establish.

I am, etc.,

HUNTINGTON WILSON.

File No. 817.00/1556.

No. 16.] DEPARTMENT OF STATE,
April 21, 1911.

SIR: The Department has received and has read with attention your No. 21 of the 27th ultimo in relation to political conditions in Nicaragua. In this connection you are referred to the department's telegram of April 8 expressive of its views regarding the situation.

I am, etc.,

HUNTINGTON WILSON.

File No. 817.00/1586.

The American Minister to the Secretary of State.

[Extract.]

No. 38.] AMERICAN LEGATION,
Managua, April 25, 1911.

SIR: I have the honor to report that conditions here continue quiet throughout the country.

On Sunday, April 16, the first day of the elections, Gen. Emiliano Chamorro left Corinto for San Salvador. He called at the legation

[1] See inclosures with the Department's instructions of Jan. 20, 1911.

before he left and told me he was very sorry that I had not seen it to be my duty to support him in demanding that President Estrada accept the constitution as prepared by the former assembly and that he felt sure that in time I would discover that I had made a serious mistake, but that he, Chamorro, felt no resentment, being satisfied that I thought I was pursuing the proper course.

By the time this dispatch reaches the Department the new assembly will have convened and this Government will be in the best condition in which it ever will be to close all matters, and I would most respectfully but most earnestly urge that there be as little delay as possible in arranging all pending questions.

I have, etc.,

ELLIOTT NORTHCOTT.

[Extract.]

No. 41.]

AMERICAN LEGATION,
Managua, May 5, 1911.

SIR: I have the honor to report that the newly elected Assembly convened here on Monday last and organized by electing Dr. Ignacio Suarez president of that body * * *. The president has asked of the assembly the authority to proceed with negotiations for a loan through or by the aid of the Government of the United States; his object is to get the Assembly committed to the policy of the loan so that there will be no question of its approval afterward by the same body * * *. The financial condition of the public is deplorable and unless relief is given from some source will become critical in a very short time. Legitimate demands on the Government, growing out of the revolution and coming from other sources, are becoming very pressing. The Nicaraguan member of the Cartago court has not been paid for about a year. I am, however, more than ever convinced that the natural riches of the country is such that with the proper assistance financially, and the proper government, a comparative short period of peace will show a progress that will be little short of miraculous.

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1573, 1574.

[Telegrams—Paraphrases.]

MANAGUA, *May 9, 1911.*

President Estrada caused the arrest last night of Minister of War Mena, on the ground of "contemplated treason." The President and Adolfo Díaz called at the legation and informed me of this action, adding that they greatly feared an uprising. It was evident that the President had been drinking heavily.

To-day Estrada resigned the presidency in favor of Vice President Díaz, who at once released Mena. At my request Mena was received at the British consulate. He asked the troops to remain quiet, assuring them of his safety.

Estrada's attack on Mena without advising with the legation violates the agreement given Dawson. If not the act of a drunken man under the advice of Moncada, minister of gobernación, and an enemy

of Mena, it was a treacherous step toward throwing the Government to the Liberals.

NORTHCOTT.

File No. 817.00/1575, 1579.

MANAGUA, *May 11, 1911.*

I have fully confirmed the former report that Estrada's deed was done in a fit of drunken insanity, with the advice of Moncada. Estrada is still at Corinto. Everything is quiet. Mena has turned back all troops marching on Managua. Díaz is recognized as President, and the Díaz Government is especially anxious to go on with the program as arranged. No anti-American sentiment apparent here.

I am assured the Assembly will confirm Díaz in the presidency according to any one of the following plans which the Department may indicate, namely:

1. Recognize Díaz without further action; or
2. Declare the presidency vacant and elect Díaz; or
3. Declare the presidency vacant because of Estrada's action, Díaz succeeding by virtue of being Vice President.

A war vessel is necessary for the moral effect.

NORTHCOTT.

File No. 817.00/1579.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *May 14, 1911.*

To the Department it appears that either the first or third plan of confirming the presidency of Díaz would accord with Martinez's note of November 5, 1910, to Dawson, and also the Assembly's decree of December 31, 1910, electing Díaz Vice President. Make suitable expression of this Government's satisfaction with the Díaz Government's assurance of its desire to continue with the program.

WILSON.

File No. 817.00/1626.

The American Minister to the Secretary of State.

[Extract.]

No. 53.] AMERICAN LEGATION,
Managua, May 25, 1911.

SIR: I have the honor to report that the political situation has remained unchanged since my No. 47 of May 15[1]; that is to say, that President Díaz and Gen. Mena continue to work together with every evidence of unity of feeling and interest. Rumors have been current that the Liberals are organizing a concerted uprising all over the country with the declared object of defeating the loan. It is difficult to estimate how serious a measure this might be if well organized and led, as the Liberals are in such a majority over the Conservatives. I therefore hasten to repeat my suggestion as to the advisability of sta-

[1] Not printed.

tioning permanently, at least until the loan has been put through, a war vessel at Corinto.

I have, etc.,

ELLIOTT NORTHCOTT.

File Nos. 817.00/1593, 1594, 1595, 1596.

[Telegrams—Paraphrase.]

MANAGUA, *May 30, 1911.*

A Liberal plot supported by Zelaya has been discovered. The President urgently requests that an American war vessel be immediately sent to patrol the coast between San Juan del Sur and Corinto and watch for filibuster that left San Francisco some time ago. Diaz also requests legation to urge Costa Rica Government to watch Rudolfo Espinosa and Moncada, who are together on a boat bound for Limón, evidently intending to cross through Costa Rica to the Pacific side and join the insurrection. This probably explains Estrada's treachery and proves the troubles are due to opposition to the program by an anti-American party. Diaz says Mena is cooperating with him admirably. I repeat my belief that a war vessel is necessary on the Pacific coast of Nicaragua.

NORTHCOTT.

MANAGUA, *May 31, 1911.*

The fort overlooking Managua blew up this afternoon; between 60 and 70 of the garrison killed. Diaz and Mena believe it is part of the Liberal plot, and a number of arrests have been made.

President Beltrán of Honduras wires Nicaraguan Government that the filibuster *Eureka* left Salina Cruz May 30 with cargo of arms, ostensibly for Amapala. I have informed legation in Salvador.

NORTHCOTT.

File No. 817.00/1593.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *June 1, 1911.*

Inform Diaz that the Government of the United States renews assurances of its support in assisting his Government in so far as it properly may; that this Government has taken note of his pledge to you—and therefore to this Government—not to resign.

Since Diaz is the constitutional President, recognized by this Government as such, Mena must see it to be indispensable to his own interests that Diaz remain in office.

Impress Diaz with the value of harmony with Mena, so as to execute effectively the pledges signed by him and Mena and delivered to Dawson.

It would be the manifest duty of the United States Government to continue to recognize the constitutional authorities in case of irreconcilable differences between the Executive and any faction.

Inform Diaz that the *Yorktown* has been ordered from Panama to watch for the reported filibuster and intercept her if warranted by circumstances. Also that the Costa Rican Government has been informed of the expected arrival of Espinosa and Moncada.

KNOX.

File No. 817.00/1597, 1599.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *June 2, 1911.*

The governor is instructed to exercise very great vigilance in Bluefields and the Bluff. The Government learns that the filibuster *Eureka* went to Amapala where, on examination, nothing suspicious was found; the Government believes arms were landed on some island in the Gulf, and greatly desires that the Government of Salvador make a search and secure them before removed by the revolutionists.

NORTHCOTT.

File No. 817.00/1599.

The Secretary of State to the American Minister.

WASHINGTON, *June 5, 1911.*

In regard to the *Eureka* telegraph to the *Yorktown* at San Juan del Sur the information sent the department June 2. Repeat to American legation at San Salvador the other information in your telegram.

KNOX.

File No. 817.00/1640.

The American Minister to the Secretary of State.

[Extract.]

No. 58.] AMERICAN LEGATION,
Managua, June 5, 1911.

SIR: I have the honor to report that on receipt of the Department's telegram of June 1, I arranged for a conference with President Diaz, * * * at the legation on last Saturday night, June 3, the President having suggested the legation as the best place for the conference.

I began by stating that I had been instructed by my Government to assure him of its support as far as was possible and to say to him that I was ready to do anything in my power to sustain him and his administration. The President replied by thanking my Government for this expression and stated that he had understood this attitude of the Government of the United States from the first through expressions made by me; that so far as he could see there was nothing to be done that had not already been done. I then informed him that I had communicated to my Government his promise to me not to resign, and that I was instructed to say that my Government considered the pledge as given to it through me, and appreciated it very much. He replied renewing the pledge. I then stated that I had heard rumors to the effect that he was not entirely satisfied with Gen. Mena's attitude, and asked if I could be of any service in that direction. He replied that these rumors were unfounded; that he was not only entirely satisfied with Gen. Mena's actions and attitude, but

that he believed Mena necessary to the present situation. I then asked him if he thought Liberals were being unjustly imprisoned, and he replied, No; that the reports of the prisons being full were exaggerated, and that he approved what had been done as necessary. I then asked President Diaz what he thought about Gen. Chamorro's return, and he replied that Gen. Chamorro was a splendid fellow, one of the best in the world, but that he did not believe this an opportune time for his return, as his coming would cause trouble. I then asked him if he did not believe that he, Diaz, with my assistance, could bring about an understanding between Mena and Chamorro, to which he replied that it was possible, but would cause endless trouble and annoyance afterward, and that he would prefer that I did not take the matter up with Mena.

The President then inquired about the loan, but I informed him that I had received no further news of it from my Government. * * *

Inclosed herewith is a copy of an agreement, with translation, signed by Diaz and Mena on May 9 last. It is perhaps needless for me to say that I was in no way a party to this agreement. When shown me I at once said that I could not agree at all to be bound by it, as far as my influence went, as the people of Nicaragua should have the right to freely select the President to succeed Diaz at the expiration of Estrada's term, and with this Gen. Mena seemed perfectly satisfied.

In view of all this I am led to the conclusion that Diaz will retain the presidency just so long and no longer as it suits him, regardless of any pledge or promise he may have made to me or to anyone else. The whole matter resolves itself into a question of how long the present status, supported as it is only by Mena's strength, Diaz having in himself no following or strength, can be maintained. If the loan contracts were submitted now they would at once be approved. That trouble will come and continue to come until the loan question is settled. I am convinced.

I have, etc.,

ELLIOTT NORTHCOTT.

[Inclosure.]

Agreement between Diaz and Mena.

[Translation.]

In order to solve the political difficulties which have arisen among the chiefs of the revolution of October, and principally those that have appeared in the last few days, Gen. Luis Mena and Adolfo Diaz have agreed on the following:

1. Mena will assist Diaz, who now holds the presidency of the Republic, in the development of a policy of concord tending to return tranquility to the State, and pledges himself to give him his whole support to uphold his administration.

2. Diaz will place no obstacle whatever in the way of the future election work in favor of Mena for the candidacy for the presidency of the Republic during the next term, pledging himself to assist him in every way possible and to support him in his administration.

Signed in duplicate at Managua, May 9, 1911.

ADOLFO DIAZ.
LUIS MENA.

File No. 817.00/1616.

[Telegram—Paraphrase.]

MANAGUA, *June 9, 1911.*

I earnestly request *Yorktown* remain at Corinto two weeks at least, on account of activities of Zelayistas in Costa Rica reported to this Government. Castro Quesada, Costa Rican minister foreign affairs, is said to be aiding them.

NORTHCOTT.

File No. 817.00/1645.

The Secretary of State to the American Chargé d'Affaires.

No. 28.] DEPARTMENT OF STATE,
Washington, June 27, 1911.

SIR: I inclose herewith a copy of the Department's letter of the 20th instant,[1] and a copy of one dated the 21st instant from the Navy Department in reply thereto,[1] from which you will observe that the Navy Department has arranged for the *Yorktown* to remain at Corinto until relieved by the *Vicksburg* and for the *Marietta* to be kept in wireless communication with Bluefields.

You will communicate this information to the consuls at Corinto and Bluefields.

I am, etc.,

P. C. KNOX.

File No. 817.00/1656.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *July 3, 1911.*

A vessel laden with arms left Guayaquil July 1, bound for Nicaragua, according to information transmitted by the President of Salvador.

GUNTHER.

File No. 817.00/1669.

MANAGUA, *July 20, 1911.*

A revolution is set for July 26. The Zelayista junta in Salvador has sent an agent to procure the help of President Cabrera of Guatemala, who has been trying to defeat the Nicaragua loan project, and is cooperating with Saldivar, ex-President of Salvador, for the overthrow of Diaz. The Zelayista leader, José D. Gámez, has been conspiring with Saldivar's daughter, Tona. The foregoing advices come from the Nicaraguan chargé d'affaires in Salvador to the President.

The Nicaraguan Government knows there are deposits of arms but can not locate them.

GUNTHER.

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[1] Not printed.

File No. 817.00/1677.

MANAGUA, *July 30, 1911.*

At the legation night before last Diaz for the first time frankly confessed his position, namely that of a figurehead, ignored by Mena's followers, and no voice in decision on any executive act. I reiterated the Department's attitude toward him, and said I looked to see a radical change. He left contented, after repeating his promise not to resign until the loan matter had been settled, at least. Yesterday I had a long conference with Mena at the legation. He became contrite, and is now fully awake to the need for preserving the status quo.

GUNTHER.

MANAGUA, *August 1, 1911.*

A complete reconciliation between Diaz and Mena took place in my presence to-day.

GUNTHER.

File No. 817.00/1696.

[Extract.]

AMERICAN LEGATION,
No. 113.] *Managua, September 5, 1911.*

SIR: I have the honor to report to the Department that the only development in the political situation since my last dispatches is the movement among Gen. Mena's followers in the assembly to elect him for the presidential term which is to succeed that of President Diaz. Some of the deputies have gone so far as to state that unless this course is agreed to they will not approve the loan contracts.

Gen. Mena came to see me on the 1st instant * * * and finally * * * requested my opinion on the measure. I replied that I was unable to give an official opinion without first consulting with my Government, but that personally it appeared to me that there were grave legal objections, even apart from the terms of the Dawson agreement No. 4; that I did not see how a constitutional assembly, the successor to a constitutional assembly called to elect a President for the provisional term of two years, could possibly elect the President for the succeeding regular term of four years. I argued rather firmly with the general for a few minutes and expressed my hope that were he to become President he might become so legally with the full recognition of the American Government.

Before leaving the general became very conciliatory and requested me to consider the incident as confidential and closed. * * *

This morning Gen. Mena again called at the legation and after a few minutes conversation again opened the question. * * * He repeated all his previous arguments in favor of the step and, in addition, that there was a precedent in point in the action of the Assembly in 1859, I believe. I repeated the objections which I had made in our previous conversation and added that the precedent which might be established would hardly contribute to a popular form of Republican Government.

I further added that I could give no official reply until I was in receipt of pertinent instructions from the State Department. * * *

Of course, the approval of the loan contracts depends in a large measure upon the will of Gen. Mena, who remains in control of the majority of the Assembly. * * *

I have, etc.,

F. M. GUNTHER.

File No. 817.00/1698.

[Telegram—Paraphrase.]

MANAGUA, *September 29, 1911.*

In my 113, September 5, I spoke of the plan of the election of Mena by the assembly for the four-year constitutional term to succeed Diaz. The tacit consent of the Department to this plan would result in the immediate approval by Assembly of the loan and mixed commission matters. Mena has withheld his consent to his election before consideration of these matters by Assembly. President Díaz requests me to submit this situation to the Department and is heartily in favor of the plan, remarking that free elections are hopelessly impracticable for several years in Nicaragua. He added that if the Department disapproved he would resign and deposit the executive power in Mena. But Mena declares he will not accept the power in that way and would resign, which would doubtless split the Conservatives, cause an anti-American uprising, and put an end to the Department's present program.

GUNTHER.

File No. 817.00/1696.

The Acting Secretary of State to the American Chargé d'Affaires.

No. 51.] WASHINGTON, *September 30, 1911.*

SIR: The Department acknowledges the receipt of your dispatch No. 113, of the 5th instant, reporting that Gen. Mena, the minister of war, came to see you and, after speaking in a rambling manner about other matters, finally referred rather cautiously to his proposed candidacy for the next presidential term, suggesting at the same time the inadvisability of an attempt at a free election in Nicaragua because of the turmoil which would result therefrom. You replied to his request for an expression on this subject that you were unable to give an official opinion without first consulting with your Government, and in lieu thereof you gave your personal views.

You are instructed that of the Nicaraguan matters under consideration by the Department the ratification of the pending loan contract and the amendment of the decree establishing a claims commission are of the first importance and should be disposed of before attention is directed to other subjects.

Thereafter, in due time, the Department would be prepared to give deliberate consideration to such political questions as might concern it in pursuance of existing engagements and the principles of international law, and would consider, when opportune, making appropriate expressions in a proper case upon questions affecting the nec-

essary steps to insure recognition by the Government of the United States of succeeding presidents in Nicaragua.

I am, etc.,

ALVEY A. ADEE.

File No. 817.51/240.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *October 3, 1911.*

Decree approving loan contracts was signed this morning by the Ministers and will be sent by the President to the Assembly to-day. Yesterday a "Junta de Notables" from all over the country pronounced in favor of the loan contracts, and will use their influence with the Assembly.

GUNTHER.

File No. 817.00/1698.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *October 5, 1911.*

The Department in reply to your September 29 and October 3 believes that attention should be steadily directed to the loan and the claims commission matters; they are the first importance and should be disposed of before consideration of political subjects, which should not be discussed unnecessarily.

ADEE.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 133.] AMERICAN LEGATION,
Managua, October 26, 1911.

SIR: I have the honor to inclose herewith a copy and translation of the law[1] enacted by the National Constituent Assembly electing Gen. Luis Mena as President for the constitutional term beginning January 1, 1913, and ending January 31, 1916, and Col. Fernando Solorzano as Vice President for the same period. This law was approved in second debate by a vote of 29 to 2.

This double elections has been well received. Since it occurred conditions have had a more settled and peaceful appearance than in some time.

I have, etc.,

F. M. GUNTHER.

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[1] Not printed.

File No. 817.00/1709, 1710.

[Telegrams—Paraphrase.]

MANAGUA, *November 1, 1911.*

The new cabinet is quite to the President's satisfaction; but he writes me (Oct. 31) in part as follows:

I beg you to address your Government urging that it declare its attitude toward Gen. Mena's election, for the sake of allaying public apprehension.

Díaz sees in the return of Gen. Emiliano Chamorro danger to the policy of reconstruction, which has really been going forward in the different ministries since their reorganization. Chamorro has not yet paid his respects to the President and is said to be cooperating with the President of Guatemala for a coup d'état within a week. President Díaz believes that recognition of Mena by the department would cause Chamorro to discontinue his machinations.

GUNTHER.

File No. 817.00/1725.

MANAGUA, *November 18, 1911.*

I respectfully request instructions as to article 3 of agreement 1, signed October 27, 1910, by Estrada and others, whether you wish me to point out again the pledges therein. The present (second) National Constituent Assembly will adjourn in a few days and has not called a presidential election under the constitution.

GUNTHER.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *November 20, 1911.*

The National Assembly may wish, if possible, to continue in session until the arrival at Managua of the currency experts, collector general of customs, and assistants, who will start before December 1. The assembly may wish to decide after their arrival whether they need further legislation to carry out the projected financial reforms.

KNOX.

File No. 817.00/1744.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 152.] AMERICAN LEGATION,
Managua, December 2, 1911.

SIR: Referring to the Department's telegram of November 20 * * * I have the honor to report that after discussing this matter with President Diaz he directed that the assembly continue in session. As it has completed the constitution, it continues as a legislature, losing altogether its former character of constitutional assembly. Incidentally I venture to call the Department's attention to the

misnomer which has almost invariably been applied to the assembly, namely, that of constituent. The error seems first to occur in the translation of the agreements of October 27, 1910, and has been constantly repeated. It was not a constituent assembly, but a constitutional assembly. The legation has consistently applied the misnomer to avoid confusion. President Diaz has not yet approved the constitution, which, according to his wishes, will not be put in force until March 1, 1912. * * *

I have, etc., F. M. GUNTHER.

File No. 817.00/1742.

[Telegrams—Paraphrase.]

MANAGUA, *December 18, 1911.*

Exiled Zelayistas in Costa Rica headed by Irias and supplemented by Estrada Cabrera are about to move against Nicaragua. Seven machine guns for them are coming from New Orleans. The foregoing is reported by the Nicaraguan chargé d'affaires in Costa Rica.

GUNTHER.

File No. 817.00/1745.

MANAGUA, *December 21, 1911.*

President Diaz has written me a letter, which I received this morning, with the request that I transmit a translation of it to the Department. The following is a translation of the letter:

MY DEAR SIR AND FRIEND: Since you have been here during such an eventful period, occupying a position permitting you fully to appreciate the situation, you have perceived what almost insuperable obstacles confront every attempt to put into effect a truly reconstructive program. One of them is found in our foreign relations, where the inevitable contact of our policy with that of other Central American States produces uneasiness in the country because of the uncertainty it inspires in the men of the Government and because of the encouragement it gives to those who expect assistance from some other Central American Government that is interested in creating difficulties for us in our relations with the United States.

Another is the internal situation. The party leaders, filled with hatred by years of bloody struggle, will never confide the triumph of their cause to republican propaganda, but expect always to assert by force of arms the right to exercise power in the Republic. An irreconcilable division therefore separates the political parties, and the Government consequently has to maintain itself, as in a campaign, against the constant conspiring of its opponents; in short, the result may be called a state of war. It has lasted for years, and, of course, the economic consequences are profound; and this same violent politics is also the reason for the prevalence of sanguinary crimes, which can not be successfully dealt with by courts and juries, since in the juries passion defeats justice almost always.

On these two problems I have seriously meditated and disconsolately conclude that lasting and stable peace, order, economy, moderation, and liberty can not come through our own means; and that the grave evils affecting us can be destroyed only by means of more direct and efficient assistance from the United States, like that which resulted so well in Cuba.

It is therefore my intention by means of a treaty with the American Government to so amend or add to the constitution as to assure that assistance, permitting the United States to intervene in our internal affairs in order to maintain peace and the existence of a lawful government, thus giving the people a guaranty of proper administration.

Before opening official negotiations I wish first to learn privately through you the opinion of the Department of State, and if you can do me this favor you will also render thereby a great service to this country.

I am, etc., ADOLFO DIAZ.

GUNTHER.

The Secretary of State to the American Chargé d'Affaires.

[Telegrams—Paraphrase.]

WASHINGTON, *December 23.*

In response to your telegram of December 21 you are instructed to express to President Diaz the department's intense gratification upon noting the spirit of confidence in the good faith of the United States which he displays in his proposal, which implicates recognition by President Diaz of this Government's benevolent and sympathetic attitude toward Nicaragua and the other Central American Republics. The suggestions made by President Diaz involve, however, matters of such great importance that the Department will not be able to make any expression whatever in relation to them until after deep and careful consideration.

KNOX.

44773°—F R 1911——48

NORWAY.

NATURALIZATION CONVENTION OF 1869 BETWEEN THE UNITED STATES AND SWEDEN AND NORWAY: INTERPRETATION OF ARTICLE III OF THE PROTOCOL THERETO.

File No. 711.574.

The Norwegian Minister to the Secretary of State.

LEGATION OF NORWAY,
Washington, March 20, 1911.

SIR: By Article III of the convention concluded May 26, 1869, between Norway and Sweden and the United States it has been stipulated that if a citizen of the one party, who has become a recognized citizen of the other party, takes up his abode once more in his original country, and applies to be restored to his former citizenship, the Government of the last-named country is authorized to receive him again as a citizen on such conditions as the said Government may think proper.

In order to define and explain more exactly the contents of the said convention, the respective powers have in a protocol done at Stockholm, May 26, 1869, made the following declaration relating to the above-mentioned Article III:

> It is further agreed that if a Swede or Norwegian who has become a naturalized citizen of the United States, renews his residence in Sweden or Norway without the intent to return to America, he shall be held by the Government of the United States to have renounced his American citizenship. The intent not to return to America may be held to exist when the person so naturalized resides more than two years in Sweden or Norway.

Acting under instructions from my Government I have the honor to ask whether the American Government might be willing to accept such an interpretation of the above-mentioned Section III of the protocol, that the two years' stay in the original country shall be considered to be only a term, after the expiration of which the person concerned shall under any circumstances whatever be held to have renounced his American citizenship, so that the renouncement of the said citizenship may be deemed to have taken place before the expiration of the two years in case the person in question has satisfactorily stated his intention not to return to the United States of America.

Adding that I should feel greatly obliged for receiving in due course your excellency's answer in the matter set forth above,

I avail, etc.,

H. BRYN.

The Secretary of State to the Norwegian Minister.

No. 37.] DEPARTMENT OF STATE,
Washington, March 29, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant relative to the loss of American citizenship by naturalized Swedes or Norwegians who may renew their residence in the country of their nativity without the intent to return to America.

Article III of the protocol to the naturalization convention of 1869 between the United States and Sweden and Norway provides:

> It is further agreed that if a Swede or Norwegian, who has become a naturalized citizen of the United States, renews his residence in Sweden or Norway without the intent to return to America, he shall be held by the Government of the United States to have renounced his American citizenship.
>
> The intent not to return to America may be held to exist when the person so naturalized resides more than two years in Sweden or Norway.

In reply to your inquiry whether "the American Government might be willing to accept such an interpretation of the abovementioned Section III of the protocol, that the two years' stay in the original country shall be considered to be only a term, after the expiration of which the person concerned shall under any circumstances whatever be held to have renounced his American citizenship, so that the renouncement of the said citizenship may be deemed to have taken place before the expiration of the two years in case the person in question has satisfactorily stated his intention not to return to the United States of America," I have to say that if the inquiry of your Government is whether this Government would be willing to interpret the article of the protocol quoted to mean that a two-years' stay in the country of his origin by a Norwegian who has obtained naturalization in the United States shall be deemed conclusive evidence of renunciation of his American citizenship, the answer must be in the negative, as the article of the protocol provides that such two years' stay, in the absence of proof that the party renewed his residence in Norway without intent to return to the United States, raises the presumption of intent not to return, which may be rebutted by proof to the contrary.

On the other hand, however, this Government interprets the protocol to mean that a former Norwegian who secures naturalization in the United States may be deemed to have renounced his American citizenship before the expiration of the two years, if it be satisfactorily shown that he does not intend to return to the United States.

Accept, etc.,

P. C. KNOX.

PANAMA.

CONVENTION FOR THE SETTLEMENT OF THE BOUNDARY DISPUTE BETWEEN COSTA RICA AND PANAMA. GOOD OFFICES OF THE UNITED STATES.[1]

File No. 718.1915/189.

The Ministers on Special Mission of Costa Rica and of Panama to the Secretary of State.

WASHINGTON, *June 10, 1911.*

Mr. SECRETARY: Referring to our interview of Thursday the 8th instant in regard to the arbitration of the boundary question between Costa Rica and Panama, of which your excellency is well informed, we have the honor to confirm our request to place in the hands of the honorable the Chief Justice of the United States of America the inclosed note requesting his honor to accept the office of arbitrator upon said boundary question.

With many thanks in advance, we have, etc.,

J. B. CALVO.
BELISARIO PORRAS.

[Inclosure.]

The Ministers on Special Mission to the Chief Justice of the Supreme Court.

To the honorable the Chief Justice of the United States of America:

The undersigned, Joaquín Bernardo Calvo, envoy extraordinary and minister plenipotentiary of the Republic of Costa Rica, and Belisario Porras, envoy extraordinary and minister plenipotentiary of the Republic of Panamá, have the privilege to submit to your honor an authentic copy of the convention entered into between the two aforesaid Republics under date of the 17th of March, 1910, whereby your honor was nominated arbitrator to decide, in conformity with the terms of said convention, upon their boundary questions. This convention was duly approved by the respective Legislatures of the Republics of Costa Rica and Panama last year, and the ratifications were exchanged at the city of Washington on the 17th of last May.

As your honor will observe in Article IV, the representatives of both Governments concerned, or only one of either of them, should, 30 days after the ratifications of the said convention have been exchanged, address your honor, requesting the acceptance of the office of arbitrator assigned to your honor by Article I of the same convention.

Therefore, the requisite formalities having taken place, we respectfully beg leave to request your honor to kindly accept the office referred to and advise us of your acceptance.

We are deeply interested to put an end to this boundary question, which is the only one that divides our sister Republics, and we feel fully confident of your honor's wisdom and sound judgment.

J. B. CALVO.
BELISARIO PORRAS.

WASHINGTON, D. C., *June 10, 1911.*

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[1] See Foreign Relations, 1910, p. 772.

The Secretary of State to the Chief Justice.

DEPARTMENT OF STATE,
Washington, June 13, 1911.

SIR: At the request of Señor Don Joaquín Bernardo Calvo, envoy extraordinary and minister plenipotentiary of Costa Rica, and of Dr. Belisario Porras, envoy extraordinary and minister plenipotentiary of Panama, I have the honor to transmit to you herewith a joint note[1] addressed to you in which they request you to accept the office of arbitrator of the boundary dispute between their respective countries.

I have, etc.,

P. C. KNOX.

The Secretary of State to the Minister on Special Mission.

DEPARTMENT OF STATE,
Washington, June 13, 1911.

SIR: I have the honor to acknowledge the receipt of the joint note dated the 10th instant, signed by yourself and Mr. Calvo, minister of Costa Rica, inclosing a joint note addressed by you and Mr. Calvo to the honorable the Chief Justice of the United States of America, in which the latter is requested to accept the office of arbitrator of the boundary dispute between the Republics of Panama and Costa Rica.

In reply I have the honor to inform you that I have taken pleasure in forwarding to the Chief Justice, this day, the letter which you and Mr. Calvo have addressed to him, with the copy of the convention which accompanied it.

A note similar to this has also been addressed to Mr. Calvo.

Accept, etc.,

P. C. KNOX.

File No. 718.1915/193.

The Chief Justice to the Secretary of State.

PORT HOPE, ONTARIO, CANADA, *July 26, 1911.*

MY DEAR MR. SECRETARY: I have your recent letter[2] inquiring concerning my action in the request referred to me by the representatives of Costa Rica and Panama as to the arbitration provided for in the agreement between these two countries. I must apologize for my delay in replying to the request, which has been occasioned by circumstances over which I had no control. I beg leave under this cover to send you a copy of a letter by me to-day addressed to the ministers of the two countries, and at the same time to send you the letters which I have addressed to the respective ministers so that you may see that they are delivered.

The conditions which I have imposed to the acceptance of the duty of arbitration are in exact compliance with the result of a conversa-

[1] The one next above. [2] Not printed.

tion which took place between myself and the ministers of the respective countries in Washington in June last, of which conversation and understanding I took the liberty of informing you in a letter[1] addressed to you some time since.

With the greatest respect, believe me, etc.,

EDWARD D. WHITE.

[Inclosure.]

The Chief Justice to the Ministers on Special Mission.[2]

PORT HOPE, ONTARIO, CANADA, *July 25, 1911.*

GENTLEMEN: I have the honor to acknowledge the receipt of your esteemed favor of June 10 last, dated at Washington, D. C., inclosing me "an authentic copy of the convention entered into between the two aforesaid Republics under date of the 17th of March, 1910, whereby your honor (myself) was nominated arbitrator to decide in conformity with the terms of the said convention upon their boundary questions." I beg leave to further observe the fact that in your letter referred to you have done me the honor to request me "to kindly accept the office referred to, and advise us of your acceptance."

Thus taking notice of the statements made, and of the request therein made, I beg leave to say that I accept the duty of considering and passing upon the dispute as to the boundary between the respective countries referred to in and provided for by the agreement; and this acceptance, however, on my part is made subject to the following express and special understanding, that is: "That all the documents and papers submitted to me for my action in my official capacity which are originally in the Spanish language shall be translated into English by a translator selected by the respective parties, they being therefore wholly responsible for the sufficiency and accuracy of the translations, and that all the arguments or proceedings submitted to me to be acted upon shall be in the English language." This condition is affixed by me to my acceptance, because it seems to me to be essential to enable me to discharge the duties which the arbitration implies with fairness to both of the countries involved. I am led further to exact the condition because that condition literally conforms to what I understand was the agreement between the representatives of the respective countries when their representatives did me the honor to call upon me personally in Washington in June last and inform me of their intention to more formally notify me thereafter.

With the assurance of the greatest respect, etc.,

EDWARD D. WHITE.

The Secretary of State to the Chief Justice.

DEPARTMENT OF STATE,
Washington, August 2, 1911.

MY DEAR MR. CHIEF JUSTICE: I am in receipt of your letter of the 26th ultimo, wherewith you inclose the originals and a copy of your letter addressed to the ministers of Costa Rica and Panama accepting the position of arbitrator of the boundary dispute between these two countries under the condition that all documents and papers submitted to you for your action in your official capacity which were originally in the Spanish language shall be translated into English by a translator selected by the respective parties, they being therefore wholly responsible for the sufficiency and accuracy of the translation: and that all arguments or proceedings submitted to you for action shall be in the English language.

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[1] Not printed.

[2] Identic note to each minister.

In reply I have the honor to inform you that I am to-day in receipt from the ministers of Costa Rica and Panama of a formal letter of acquiescence in the conditions named by you, which is herewith inclosed.

I am, etc.,

P. C. KNOX.

[Inclosure.]

File No. 718.1915/192.

The Ministers on Special Mission to the Chief Justice.

The undersigned, Joaquín Bernardo Calvo, envoy extraordinary and minister plenipotentiary of the Republic of Costa Rica, and Belisario Porras, envoy extraordinary and minister plenipotentiary of the Republic of Panama, have received the respective notes of your honor addressed to them under date of the 25th instant, wherein you were pleased to indicate your willingness to accept the position of arbitrator in the Costa Rica-Panama boundary dispute referred for your decision under the terms of the protocol of March 17, 1910.

Your honor has seen fit to make your acceptance subject to the following condition: "that all the documents and papers submitted to you for your action in your official capacity which are originally in the Spanish language shall be translated into English by a translator selected by the respective parties, they being therefore wholly responsible for the sufficiency and accuracy of the translations, and that all the arguments or proceedings submitted to you to be acted upon shall be in the English language," which both parties hereby accept.

As a matter of convenience both parties agree to submit all arguments, documents, and evidence to your honor translated into English wholly upon their responsibility, each party furnishing its own translation, which, if not impugned by the other, shall be considered and admitted to be correct and binding; and both parties further agree to select a translator who shall in all cases pass upon the sufficiency or accuracy of all translations submitted. The selection of the translator will be made after consultation with the Department of State.

The undersigned desire to convey to your honor the expression of the sincere gratitude of their respective Governments for the important service your honor has consented to render in this regard.

J. B. CALVO.
BELISARIO PORRAS.

WASHINGTON, D. C., *July 31, 1911.*

GREETINGS ON THE NATIONAL ANNIVERSARY.

File No. 819.415A/A.

The President of the United States to the President of Panama.

[Telegram.]

THE WHITE HOUSE,
Washington, November 3, 1911.

I beg Your Excellency to accept my cordial felicitations on this national anniversary of the Republic of Panama and assurances of the good will which this Government and people have for your country.

WM. H. TAFT.

File No. 819.415A/1.

The President of Panama to the President of the United States.

[Telegram.]

PANAMA, *November 4, 1911.*

In the name of the Republic and in my own name I accept with deep gratitude your cordial congratulations addressed on the occasion of the anniversary of the proclamation of independence of the Isthmus, which is guaranteed and assured by the immense power of the Nation of which Your Excellency is the eminent head. It will be the duty and the honor of Panama to preserve intact the ties which unite it to the American people, and it will protect in the measure of its strength the prodigious work which the United States is realizing to-day in the Isthmus for its legitimate development, its security, and the universal interest.

PABLO AROSEMENA.

PERSIA.

EMPLOYMENT BY PERSIA OF AMERICAN EXPERTS AS FINANCIAL ASSISTANTS.

File No. 891.51/37.

The Persian Chargé d'Affaires to the Secretary of State.

No. 21.] IMPERIAL LEGATION OF PERSIA,
Washington, December 28, 1910.

EXCELLENCY: I have the honor to transmit to your excellency an exact copy of a cablegram which I have received from our minister of foreign affairs, for your kind consideration and attention.

Accept, etc.,

MIRZA ALI KULI KHAN.

[Inclosure.]

The Minister for Foreign Affairs to the Persian Minister at Washington.

[Telegram.]

TEHERAN, *December 25, 1910.*

Request immediately Secretary of State put you in communication with impartial American financial people and arrange preliminary employment for three years subject to ratification by Parliament of distinterested American experts as treasurer general to organize and conduct collection and disbursement revenues, assisted by one expert accountant and one inspector to superintend actual collection in provinces; secondly, one director to organize and conduct direct taxation assisted by one expert inspector similar to above. American minister informs us Secretary of State ready and willing. Avoid other methods of proceeding and irresponsible persons who may offer advice and services. Give exact copy to Secretary of State and do whatever he may suggest. Wire reports briefly. No. 9876.

HUSSEIN KULI.

File No. 891.51/37.

The Secretary of State to the Persian Chargé d'Affaires.

No. 34.] DEPARTMENT OF STATE,
Washington, January 5, 1911.

SIR: I have the honor to acknowledge the receipt of your note No. 21 of the 28th instant, transmitting a copy of a cablegram received by your legation from the ministry of foreign affairs at Teheran requesting the assistance of this department in placing you in communication with American financial experts with a view to the ultimate employment by the Persian Government of five American financial assistants.

In reply I have the honor to inform you that this matter is receiving the kindly consideration of this Department, with a view to effecting, if possible, a compliance with the wishes of your Government.

Accept, etc.,

P. C. KNOX.

File No. 891.51/54.

The Persian Chargé d'Affaires to the Secretary of State.

IMPERIAL PERSIAN LEGATION,
Washington February 17, 1911.

SIR: I have the honor to acknowledge the receipt of your communications of January 19[1] and February 14,[1] in which the State Department transmitted to this legation two lists of names suggested, at my Government's request, as being financial experts suitable to undertake the work of reorganizing the finances of the Persian Empire.

As the department is aware, the men selected are as follows:

Mr. W. Morgan Shuster, of Washington, D. C.
Mr. F. S. Cairns, of Iloilo, P. I.
Mr. C. S. McCaskey, of the New York customhouse.
Mr. R. W. Hills, of Washington, D. C.
Mr. Bruce G. Dickey, of Pine Island, Minn.

Of the three names submitted on the Department's list of January 19, I talked first with Mr. W. Morgan Shuster, who was at the head of the list.

In view of the Department's considerate suggestion to the effect that when the two more important posts had been filled, the selection of the other three assistants should be made in consultation with those two men, and that the Department would approve this course, I have the honor to inform you that Mr. C. S. McCaskey, acting deputy surveyor in the New York customhouse, was recommended by Mr. Shuster to the Department and myself as his immediate assistant. I understand that the War Department is familiar with Mr. McCaskey's previous services and record, and that the State Department is likewise aware of them.

On January 30, after making tentative arrangements as to terms and conditions with these gentlemen, I cabled my Government submitting these terms for approval, and February 8 I received a cable dispatch approving the terms and conditions in the form in which they were recommended by me.

An accurate but not strictly literal translation of said cablegram is as follows:

TEHERAN, *February 8, 1911.*

PERSIAN LEGATION,
Washington:

Cablegram regarding financial assistants received. Compensation approved. Minimum period engagement three years. Cable traveling expenses for five. Determine remaining conditions in favor of Government. Important conditions are:

(1) Being obedient to orders of ministers of finance;
(2) Option of Government to annul contracts with payment of six months' compensation;
(3) In case sickness lasts more than three months Government shall have right to annul contract;

[1] Not printed.

(4) In case of nonfulfillment of duty Government shall have right to annul contract without payment of any advance compensation or traveling expenses;
(5) From day of arrival in Teheran salaries shall be paid at end of every three months;
(6) In case assistants shall resign of their own accord, compensation shall be paid for period of actual services rendered without return traveling expenses;
(7) Assistants shall not interfere with religious or political matters nor engage in commerce.

No. 87. MOHTACHEMOS-SALTANEH.

In the name of my Government I have the honor to express sincere thanks for the kindly interest and good offices of your Department in assisting me to bring these negotiations to a successful termination.

I have, etc.,

MIRZA ALI KULI KAHN.

File No. 891.51/54.

The Secretary of State to the Persian Chargé d'Affaires.

No. 36.] DEPARTMENT OF STATE,
Washington, February 24, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, in further reference to the matter of employment by your Government of five American financial assistants, stating that arrangements have now been practically concluded with Mr. W. Morgan Shuster, Mr. F. S. Cairns, Mr. R. S. McCaskey, Mr. R. W. Hills, and Mr. Bruce G. Dickey, for service with the ministry of finance.

It is a source of gratification to this Department that it has been able, as you so kindly intimate in your note, to be of assistance to your Government in this matter; and it is my earnest hope that the services rendered by the American advisers will be of material assistance in the development of satisfactory financial and economic conditions in the Persian Empire.

Accept, etc., For Mr. Knox:
HUNTINGTON WILSON.

File No. 891.51/69.

The American Minister to the Secretary of State.

No. 128.] AMERICAN LEGATION,
Teheran, May 24, 1911.

SIR: Mr. Shuster, Mr. McCaskey, and Mr. Dickey arrived here a few days ago and have been installed for the present in the Attarbek Park, the finest place in Teheran as a residence. They have made a good impression on the Persians, are working already with the finance minister, Mamtaz Ed Dowleh. Mr. Hills, I understand, has arrived at Engeli. The three I have met seem to be admirably chosen.

I am, etc.,

CHARLES W. RUSSELL.

File No. 891.51/71.

[Extract.]

No. 132.] AMERICAN LEGATION,
Teheran, June 13, 1911.

SIR: I inclose a translation of an act of the Medjles [1] passed to-day, giving full powers in financial matters or Treasury business to Mr. Shuster. This was passed by an almost unanimous vote. Little overt opposition.

I am, etc.,

CHARLES W. RUSSELL.

File No. 891.00/595a.

The Acting Secretary of State to the American Minister.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 31, 1911.

In view of alarmist press telegrams, report concisely by telegraph concerning the political situation, with particular reference to the return of the deposed Shah and the attitude of the British and Russian Governments toward the internal situation and toward the American financial advisers.

ADEE.

File No. 891.00/596.

The American Minister to the Secretary of State.

[Telegram—Extract.]

AMERICAN LEGATION,
Teheran, August 1, 1911.

Renewal of effort by Russian minister to prevent Shuster controlling expenditures of customs receipts and have Belgian director of customs pay Russian loan coupons and other fixed charges without Shuster's authorization as required by recent Persian law. No question except as to which of them shall direct bank custodian of customs to pay, as Shuster, in writing, long since affirmed his intention to do so. Russian minister and now other legations, including German Legation, claim contracts call for payment by customs administration.

To-day minister for foreign affairs complained to Berlin claiming Shuster is paying officer of customs administration. German minister and Italian chargé d'affaires are partly influenced by Shuster's omission to call upon anyone. Russian minister seeking, I have reason to believe, to prevent Shuster's success. Russian minister of finance, Russian bank, British bank and, after a struggle, Belgian customs director, had acquiesced in Shuster's views vigorously asserted.

RUSSELL.

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[1] Not printed.

File No. 761.91/18.

The Persian Chargé d'Affaires to the Secretary of State.

No. 64.] IMPERIAL PERSIAN LEGATION,
Washington, November 25, 1911.

EXCELLENCY: I have the honor to inclose for your excellency's consideration the translation of a cipher cable received this afternoon from the minister of foreign affairs at Teheran. As the inclosed cable explains, I am advised to communicate with my Government by cable as soon as I may have the pleasure of receiving a reply from your excellency.

Accept, etc., MIRZA ALI KULI KHAN.

[Inclosure.]

The Minister for Foreign Affairs to the Persian Legation at Washington.

[Telegram.]

TEHERAN, *November 25, 1911.*

Through the cables Nos. 968 and 967 you have been advised of the attitude of the Russians, of interrupting the relations, of ordering troops, and finally of compliance with their demands; and you know that all these (Russian) steps are directed toward (forcing) the dismissal of Mr. Shuster. For they consider Mr. Shuster's activities such as the "opposition to the Belgians, the engaging of Maj. Stokes, and the appointing of Englishmen for the north, and especially the publication of communications and correspondence against Russia in the English papers"—as opposed to their policy and interest. They are therefore exerting themselves to destroy Mr. Shuster's work and to subject this Government to such threats and pressure which would destroy the very independence of this country. Some (?) days ago (?) Mr. Shuster sent a long letter, either (?) against Russia and England, and especially against Russia, to the (London) Times, and he afterwards published and spread that letter in Teheran. Yesterday, when I went to the Russian legation for apology, and I supposed that the compliance with the demand made in reference to the Garden of Shoaes Salteneh will remove their pretext for the sending of troops, I found that the Russian minister brought up the subject of the letter (i. e., Mr. Shuster's to the Times), claiming it to be a "great insult to the Russian Government," and wishing to use it as a pretext against withdrawing the troops. I am certain that the proposal which they (Russians) will make to us would be the dismissal of Mr. Shuster, and on this matter the affair of Persia and Russia will reach the point of extreme difficulty, in such a manner that we might either consent to Mr. Shuster's removal or to the actual, immediate destruction of the country.

You must do your best to call on the minister of foreign affairs and discuss this matter and immediately learn the view of the United States Government. In any event immediately cable the view of the United States foreign office as to the policy of action which the Persian Government must adopt in this instance. Third of Zi-haja. No. 889.

VOSSOUGH-ED DOUVLEH.

(NOVEMBER 25, 1911.)

File No. 761.91/10.

The Department of State to the Persian Legation at Washington.

Aide Mémoire.

DEPARTMENT OF STATE,
Washington, November 27, 1911.

On November 26 the Department of State received from the Imperial Legation of Persia a copy of a telegram to the general effect

that various activities of Mr. W. Morgan Shuster, treasurer general of Persia, including press propaganda critical of the attitude of certain foreign powers, are complained of by the Imperial Russian Government and have thus involved the Government of Persia in difficulties.

The Persian chargé d'affaires having been instructed to discuss the situation with the Secretary of State and to seek the views and advice of the American Government in the premises, the Secretary of State desires to express his appreciation of the considerate motive of this communication.

In view of the circumstances under which the Persian Government selected and engaged Mr. Shuster, an American citizen, to fill an important post as an official of Persia, the Government of the United States recognizes that the difficulties indicated present for the decision of the Government of Persia political questions in regard to which the Secretary of State does not find it appropriate to offer any suggestion.

File No. 761.91/12.

The American Minister to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Teheran, November 30, 1911.

Have shown Shuster paraphrase your telegram November 28, 5 p. m.[1] Persian Government apparently were not informed of your statement by Persian chargé d'affaires. At his request I transmit the following from Shuster:

In reference to my contract with Persian Government on file Department of State, I have faithfully performed same, executing duties of treasurer general under greatest difficulties to the satisfaction of Persian Legislature, Government, and people. At noon yesterday Russia presented 48-hour ultimatum to Persia demanding my dismissal and that my assistants should be subjected to the approval of Russia and England. Six other Americans serving here with contracts similar to mine and eight others en route to sign contracts, all authorized by Persian Legislature. Russia evidently intends making it impossible for Americans to serve Persian Government. Russian semiofficial press has long been waging campaign of abuse against me, calling me Jew. Apparently no prospect of Persian Parliament revoking my contract. Request prompt information as to protection to which American citizens having contracts made with friendly sovereign nation are entitled under these peculiar circumstances. I am personally indifferent to result, but feel heavy responsibility for 14 other Americans brought here largely through my influence. It is probable that the failure of Parliament revoke my contract will be followed by actual interference by Russia with my duties, powers, and rights thereunder. I am asking this information not as Persian official but as American citizen.

RUSSELL.

[1] Not printed.

File No. 761.91/12.

The Secretary of State to the American Minister at Teheran.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 1, 1911.

Your telegram of November 30, 10 p. m. In response to an appeal for the influence of the United States in the present crisis the Persian chargé d'affaires has to-day been informed that under all the circumstances this Government has nothing to add at this time to what was indicated in the aide mémoire handed him on the 27th ultimo, the pertinent part of which was telegraphed you on November 28, 5 p. m. This indisposition to interfere or advise as to the present decisions and political questions of paramount importance to Persia and directly affecting other powers must be clearly understood by the Persian Government.

Turning to the status of Mr. Shuster and his assistants in their capacity as Americans citizens you will impress upon the Government of Persia the expectation of this Government that all proper measures be taken to insure their personal safety and well-being.

In conversation with your British and Russian colleagues you will assure yourself that their Governments will not fail, either now or in case a changing situation should throw upon them heavier responsibilities, to insure to Shuster and his associates the personal security consideration and justice due them as American citizens.

The legation will, of course, afford these American citizens all proper protection in case of jeopardy and will safeguard any rights growing out of the terms of their contracts with the Persian Government.

KNOX.

File No. 891.51/123.

The American Ambassador to Russia to the Secretary of State.

No. 129.] AMERICAN EMBASSY,
St. Petersburg, December 15, 1911.

SIR: I have the honor to report that I called to-day upon M. Sazonoff, the minister of foreign affairs.

In connection with Persian matters he confirmed the statement telegraphed to you on December 8, 1911,[1] to the effect that complete personal protection would be given to Mr. Shuster, including, if necessary, an armed escort out of Persia.

He added that Mr. Shuster's selection was particularly disagreeable to Russia, not only on account of his action, but because he is a Jew. I ventured to say that in this at least I thought he was mistaken, but he insisted upon it with great emphasis and ascribed Shuster's interests to this alleged fact. Nevertheless he assured me that Shuster's personal protection by Russia could be absolutely relied upon.

I have, etc.,

CURTIS GUILD.

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[1] Not printed.

File No. 891.51/122.

The Secretary of State to the American Minister at Teheran.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 27, 1911.

No telegram received from you between your December 22, 6 p. m., and your December 26, 11 a. m., which has been acted upon. Has Mr. Shuster resigned or been dismissed from his official Persian position, and when does he plan to depart from Teheran? Do his associates also leave, and how many American citizens in the party?

KNOX.

File No. 891.51/124.

The American Minister to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Teheran, December 28, 1911.

Your telegram December 27, 2 p. m. Have sent no telegram between dates mentioned.

The Cabinet notified Shuster in writing that the Cabinet and the commission mentioned in my telegram of December 22, 6 p. m.,[1] yielding to the ultimatum were compelled to recall him from the Persian service, employing expression similar to language of the ultimatum. He answered acquiescing and expressing willingness to turn over to successor who might be designated. Polite oral messages accompanied the Cabinet communication and Shuster's response. He hopes to depart from Teheran within a week or two. Date not fixed yet. His party will consist only wife, two small daughters, nurse, secretary, and one or two American men.

RUSSELL.

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[1] Not printed.

PERU.

File No. 823.032/2.

MESSAGE OF THE PRESIDENT, DON AUGUSTO B. LEGUIA, TO THE PERUVIAN CONGRESS, JULY 28, 1911.[1]

[Extract—Translation.]

The specially cordial ties of friendship which now as ever bind us to the United States of America have in these latter times been strengthened by the decisive influence which the Great Republic has interposed in behalf of the peace of the continent and the lofty international principles which our country has invariably upheld and continues to uphold.

The three nations I have alluded to [Argentine Republic, Brazil, and the United States] have during the past year continued in the noble task they voluntarily undertook to seek a peaceful and honorable solution of the old boundary dispute between our Republic and Ecuador.

After the submission to the consideration of both countries of the protocol[2] which the American Government proposed in July, 1910, with a view to strengthening and rendering the mediation efficacious within the terms and conditions in which it was originally offered, the agreement in question was accepted by my Government, which ordered the minister of Peru in Washington immediately to sign it in its name. The National Congress is fully acquainted with this matter, which was submitted to it for its information at the beginning of last year's legislature.

Following the surprising attitude it has assumed throughout the whole progress of the mediation, the Government of Ecuador declined to accept the principal clauses of the protocol and evidenced its rejection in official communications addressed to the mediators.

It was in this state of affairs that the Ecuadorian Government and Congress, by strange official statements opposing the furtherance of the arbitration proceedings and revealing a determination not to accept the award which might be given, obliged His Majesty the King of Spain to resign the jurisdiction conferred upon him by the Convention of 1887, which had been ratified by the protocol of 1904.

Peru owes a debt of sincere gratitude to that illustrious Prince for the impartiality and rectitude with which he directed the study and prepared the solution of the stormy litigation submitted to his award. His very inhibition, followed by a demand on the Ecuadorian Government for explanations, manifests the high opinion the Spanish Monarch held of his mission; but unfortunately he failed to find in

[1] Transmitted by the American Minister in dispatch No. 32 of Aug. 1, 1911.
[2] See Foreign Relations, 1910, p. 485.

one of the parties sufficient love of justice to submit the affair to a definite solution nor decorum enough to accept and abide by it.

After the Spanish award had been set aside, the three mediating countries shortly afterwards addressed an official note to the Governments concerned, proposing that the boundary question should be submitted to The Hague Arbitration Tribunal. The lofty scope of so laudable a proposal can not fail to be recognized by all. When the Madrid Arbitration had failed in consequence of its foreseen rejection by the Government of Ecuador, the mediating nations called upon to uphold and strengthen the principles of civilization and progress on the continent desired by their entry into so grave a matter to give fresh prestige to the beneficial doctrine of arbitration, by transferring the dispute to the consideration and decision of the supreme international tribunal, recognized and respected by all the nations of the world.

It was hard for Peru to enter upon a second trial; it had just finished the one conducted before Spain, with results favorable to itself, and it was especially distasteful to consent to the refusal of the opposing country, when called upon to enter upon another arbitration, since the former one had just been rejected by it.

But our desire for continental peace, our spirit of American confraternity, evidenced on so many occasions; our absolute confidence in the justice of our cause and the impregnable logic of its defense; and deference to the lofty ideal pursued by the mediators, induced us to accept the new proceedings as a last resource, which we did by accepting the proposal of the mediators. But, to our surprise and regret we were informed that Ecuador had rejected this last proposal, founding its attitude on arguments which our Government did not fail to refute with incontestable answers.

The announcement of our adversary's refusal places the cause of Peru in the most favorable condition in the eyes of the whole world. Ecuador, in rejecting all jurisdictions, both that accepted by itself voluntarily 24 years ago and now that recently suggested of a tribunal to which the most powerful States have submitted their differences, clearly shows its deep conviction that its pretensions are not worthy of presentation before any judge. He alone distrusts justice who in conscience is convinced of the nonmeritoriousness of his cause and the certainty of its condemnation.

The mediators have not abandoned their noble aim of finding a solution of the Peruvian-Ecuadorian boundary dispute, and we have absolute confidence that they will be able to do so in accordance with the principles they have repeatedly proclaimed, in support of which they have interposed all the legitimate and irresistible moral strength which they enjoy on the continent.

BOUNDARY DISPUTE WITH ECUADOR.

(*See* Ecuador.)

PORTUGAL.

PROCLAMATION OF THE REPUBLIC. RECOGNITION BY THE UNITED STATES.[1]

File No. 853.00/169.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 83.] AMERICAN LEGATION,
Lisbon, February 10, 1911.

SIR: During the course of a conversation yesterday with the minister for foreign affairs, he brought up the subject of recognition and at length expressed his regret that the United States had not followed the example of Brazil and other Latin-American countries by tendering unqualified recognition soon after the proclamation of the Republic. He said that it had been a great surprise to the members of the Provisional Government to see the United States follow the lead of the monarchical European countries in its attitude toward the Portuguese Republic.

I endeavored to explain to the minister that the action of our Government with respect to the new Republic is based on the precedents of the policy which has been followed by the United States in what concerns the recognition of provisional governments in other countries and that as soon as the Portuguese people shall determine, by means of a decisive vote of the Constituent Assembly or in any other unquestionable manner, the form and character of the future government of the country, I felt sure that the United States would be among the first to establish official relations with the government which shall be constituted in accordance with the will of the people of Portugal. As examples I mentioned the attitude of the United States with respect to the proclamation of the Republic in France and Brazil. Mr. Machado replied that he understood the attitude of the United States on this question to be based on precedent, but he thinks an exception should be made in this case in view of the undisputed control of the country by the Republicans, in accordance with the unanimous, in his opinion, wishes of the Portuguese people. He went on to say that, while the Provisional Government does not wish to beg recognition from any country, he hoped that the United States, as a Republic, would see fit to encourage the infant Republic by early recognition. I agreed to transmit his statement to you, but I gave him no encouragement and avoided a prolonged discussion of the subject. It is now rumored that the Constituent Assembly will meet in May, but nothing definite has been decided and the electoral law has not yet been decreed. * * *

I have, etc.,

GEORGE LORILLARD.

[1] See Foreign Relations, 1910, pp. 825–828.

File No. 853.00/169.

The Secretary of State to the American Chargé d'Affaires.

No. 19.] DEPARTMENT OF STATE,
Washington, March 3, 1911.

SIR: The Department has received your No. 83 of the 10th ultimo reporting the gist of a recent conversation between the minister for foreign affairs of Portugal and you relative to the recognition of the present Government of that country.

Your legation was advised by cable on January 2nd of this Government's attitude at that time toward the *de facto* Government of Portugal and on the 31st of the same month you were informed[1] that this Government's attitude was still one of benevolent expectancy. This attitude toward the new Government of Portugal remains precisely the same to-day.

I am, etc.,

P. C. KNOX.

File No. 853.00/190.

The Secretary of State to the American Chargé d'Affaires.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 6, 1911.

So soon as the Constituent Assembly, which meets on the 19th instant, shall have expressed the voice of the people and settled upon the form of government to be adopted by Portugal, you are instructed to inform the minister for foreign affairs of its official recognition by the Government of the United States of America. You will be prepared to do this if possible the same day that the Constituent Assembly takes definite and final action. Cable receipt.

KNOX.

File No. 853.00/191.

The American Chargé d'Affaires to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, June 7, 1911.

I have the honor to acknowledge the receipt of Department's June 6. It is probable that Constituent Assembly will definitely proclaim the Republic on 22d instant but several weeks may elapse before a constitution is decided upon and President chosen. Am I to understand the proclamation of the Republic by the Assembly to mean definite and final action?

LORILLARD.

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[1] This statement was later corrected in Instruction No. 31 (not printed), which shows that the two cables were sent to the legation at Madrid.

File No. 853.00/191.

The Secretary of State to the American Chargé d'Affaires.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 7, 1911.

Your June 7. The Government of the United States of America desires to recognize the Republic of Portugal so soon as it may be officially proclaimed by the Constituent Assembly without waiting the choice of a President or the form of constitution to be adopted.

KNOX.

File No. 853.00/197.

The American Chargé d'Affaires to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, June 19, 1911.

Constituent Assembly met this afternoon and formally and definitely proclaimed the Republic. In accordance with your instruction June 6 and June 7, I have just handed minister for foreign affairs a note stating that the Government of the Portuguese Republic has this day been officially recognized by the Government of the United States of America, which is the first of the great powers to recognize it.

LORILLARD.

File No. 853.00/206.

No. 160.] AMERICAN LEGATION,
Lisbon, June 20, 1911.

SIR: Referring to my telegram of June 19, 7 p. m., relative to the recognition of the Portuguese Republic by the Government of the United States of America, I have the honor to report that the National Constituent Assembly held its inaugural session yesterday afternoon and, amid much popular enthusiasm, unanimously proclaimed a republican form of government, a copy and a translation of which proclamation I inclose herewith.

At half-past 6 o'clock in the afternoon I was received at the foreign office by the minister for foreign affairs, to whom I verbally conveyed the information of the recognition of the Portuguese Republic by the Government of the United States and at the same time handed him an official note on the subject, a copy of which is herewith inclosed. Senhor Machado appeared delighted that recognition by our Government should follow so closely its official proclamation and requested me to convey to you his deep appreciation for this early action. In the evening a crowd of several hundred persons, with a band of music, made a friendly demonstration in front of the legation. My note is published in all this morning's newspapers and

several prominent republicans have already expressed their satisfaction to me for the friendship displayed by the American Government. No other foreign power has as yet recognized the Republic, excepting certain Latin-American countries which had already done so shortly after the revolution.

I have, etc.,

GEORGE LORILLARD.

[Inclosure 1.]

Proclamation of the Republic by the National Constituent Assembly of Portugal.

[Translation.]

The National Constituent Assembly, confirming the act of emancipation realized by the people and by the military forces of land and sea, and assembled to define and exercise the sovereign will, and having in view the maintenance of the integrity of Portugal, the consolidation of peace and confidence in justice, and the well-being and progress of the Portuguese people, proclaims and decrees:

1. The monarchy is forever abolished and the Braganza dynasty forever banished.

2. The form of government of Portugal is that of a democratic republic.

3. All those who fought until victory was gained to overthrow the monarchy are declared to be "well-deserving" of the country and the memory of those who died in that glorious enterprise shall forever be sacred and held in pious gratitude.

[Inclosure 2.]

The American Chargé d'Affaires to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Lisbon, June 19, 1911.

MONSIEUR LE MINISTRE: Whereas the National Constituent Assembly, expressing the voice of the people, has this day settled upon and definitely proclaimed the form of government to be adopted by Portugal, I have the honor, acting in accordance with instructions received from my Government, to hereby inform your excellency that the Government of the United States of America has to-day officially recognized the Government of the Portuguese Republic.

In tendering my congratulations on this auspicious occasion,

I avail, etc.,

GEORGE LORILLARD.

File No. 853.00/208.

The American Chargé d'Affaires to the Secretary of State.

No. 162.] AMERICAN LEGATION,
Lisbon, June 23, 1911.

SIR: Referring to my note of June 19, 1911, to the minister for foreign affairs, informing him that the Government of the United States had that day recognized officially the Portuguese Republic, a copy of which note was inclosed with my No. 160, of the 20th instant, I have the honor to inclose herewith a copy and a translation of the foreign minister's official reply thereto.

I have, etc.,

GEORGE LORILLARD.

[Inclosure—Translation.]

The Portuguese Minister for Foreign Affiars to the American Chargé d'Affaires.

MINISTRY FOR FOREIGN AFFAIRS,
Lisbon, June 22, 1911.

Mr. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of the note which you were pleased to address me under date of the 19th instant, communicating to me in accordance with instructions received that, whereas the National Constituent Assembly, expressing the will of the people, had confirmed the proclamation of the new institutions, the Government of the United States of America on that day officially recognized the Portuguese Republic.

I inform you that it was with the liveliest satisfaction that the Portuguese Government took cognizance of the contents of your note and on this occasion I renew to you the expression of the sentiments which animate Portugal in regard to the great American Nation and the assurance of the appreciation in which are held the good relations which happily exist between the two countries.

I avail, etc.,

BERNARDINO MACHADO.

File No. 853.00/198.

The Minister of Portugal to the Secretary of State.

LEGATION OF PORTUGAL,
Washington, June 20, 1911.

SIR: I have the honor to inform you that the National Constituent Assembly met yesterday at Lisbon and adopted the republican form of government for Portugal.

In making this communication to your excellency, I am directed to assure the Government and people of the United States of America of the cordial friendship and good-will of the Government and people of Portugal and to express their earnest hope that the new order of things may prove a factor in drawing the two countries together in closer association, to the lasting benefit of their mutual interests.

I avail, etc.,

ALTE.

The Acting Secretary of State to the Minister of Portugal.

DEPARTMENT OF STATE,
No. 80.] *Washington, July 1, 1911.*

SIR: I have the honor to acknowledge the receipt of your note of the 20th ultimo in which you inform the Department that the National Constituent Assembly met on the 19th of June at Lisbon and adopted the republican form of government for Portugal.

In reply I have the honor to say that immediately after the proclamation of the Portuguese Republic official recognition of the new Government was made by the United States through its diplomatic representative in Lisbon.

Accept, etc.,

HUNTINGTON WILSON.

File No. 853.00/210.

The Minister of Portugal to the Secretary of State.

LEGATION OF PORTUGAL,
Deer Park, July 6, 1911.

SIR: I have the honor to inclose a copy of a dispatch I have received from the minister for foreign affairs at Lisbon.

I avail, etc.,

ALTE.

[Inclosure—Translation.]

The Portuguese Minister for Foreign Affairs to the Minister of Portugal.

FOREIGN OFFICE,
Lisbon, June 22, 1911.

YOUR EXCELLENCY: The Constituent National Assembly having solemnly confirmed the change of institutions as proclaimed on October 5, I beg your excellency to be pleased to express to the Government to which you are accredited, at the earliest opportunity, my great satisfaction at the good relations maintained with the Government of the Republic during the period that has just expired, which relations I confidently look upon as a pledge of unalterable friendship between Portugal and that country.

Your excellency will also avail yourself of the opportunity to confirm the impression of profound gratitude on the part of the Portuguese Nation for that Government's prompt and final recognition of the Republic.

Greetings and fraternity.

BERNARDINO MACHADO.

File No. 853.00/210.

The Acting Secretary of State to the Minister of Portugal.

DEPARTMENT OF STATE,
No. 81.] *Washington, July 15, 1911.*

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant inclosing copy of a despatch addressed to you by the minister of foreign affairs of Portugal instructing you to express to this Government his satisfaction at the friendly relations maintained with Portugal and the thanks of his Government for the recognition of the Republic by the United States.

I avail myself of this opportunity to thank you for this expression of the friendly sentiments of the Portuguese Government toward the Government and people of the United States, which I assure you is highly appreciated.

Accept, etc.,

HUNTINGTON WILSON.

The American Minister to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, August 24, 1911.

Manuel Arriaga was to-day elected on first ballot President of Portugal by 121 votes of the Constituent Assembly. His principal opponent, Bernardino Machado, received 86 votes.

MORGAN.

RUSSIA.

TERMINATION OF THE TREATY OF 1832 BETWEEN RUSSIA AND THE UNITED STATES.

File No. 711.612/62a.

The Secretary of State to the American Ambassador.

[Telegrams.]

DEPARTMENT OF STATE,
Washington, December 15, 1911, 11 p. m.

The President's message on foreign relations, communicated on the 7th to Congress, contains the following paragraph:

By direction of the State Department our ambassador to Russia has recently been having a series of conferences with the minister of foreign affairs of Russia with a view to securing a clearer understanding and construction of the treaty of 1832 between Russia and the United States and the modification of any existing Russian regulations which may be found to interfere in any way with the full recognition of the rights of American citizens under this treaty. I believe that the Government of Russia is addressing itself seriously to the need of changing the present practice under the treaty and that sufficient progress has been made to warrant the continuance of these conferences in the hope that there may soon be removed any justification of the complaints of treaty violation now prevalent in this country. I expect that immediately after Christmas recess I shall be able to make a further communication to Congress on this subject.

The above reference by the President to the passport question was decided upon under circumstances which will be made evident to you by the following quotation from a personal and confidential letter which I addressed to the Russian ambassador on the 6th instant:

I have the honor to hand you for your confidential information a copy of what the President proposes to say in his message upon the passport question. You will find it in practically the same form as when I read it to you yesterday morning. Further consideration of the subject more and more convinces me that the easiest way to avoid the embarrassments likely to be produced by a discussion of the pending resolution in Congress would be to do as we were talking of yesterday, namely, solve the difficulties connected with the old treaty by terminating it and negotiating a new one in which there could be set down clearly the matters upon which both Governments would agree. The President's message will probably carry the matter over until after the holidays, and the interval might be availed of to work out some such solution as I suggest. I would be happy to have some further suggestion from you.

Accordingly you will seek an immediate interview with the minister for foreign affairs and hand him a note in the following terms:

Under instructions from my Government and in pursuance of conversations held by the Secretary of State with the Russian ambassador at Washington, I have now the honor to give to the Imperial Russian Government on behalf of the United States the official notification contemplated by Article XII of the treaty of 1832, whereby the operation of the said treaty will terminate in accordance with its terms on January 1, 1913.

Your excellency will recall that pourparlers between the two Governments during the last three years have fully recognized the fact that this ancient treaty, as is quite natural, is no longer fully responsive in various respects to the needs of the political and material relations of the two countries, which

grow constantly more important. The treaty has also given rise from time to time to certain controversies equally regretted by both Governments.

In conveying the present formal notification to your excellency I am instructed to express the desire of my Government, meanwhile, to renew the effort to negotiate a modern treaty of friendship, commerce, and navigation, upon bases more perfectly responsive to the interests of both Governments. I am directed by the President at the same time to emphasize the great value attached by the Government of the United States to the historic relations between the two countries, and the desire of my Government to spare no effort to make the outcome of the proposed negotiations contribute still further to the strength and cordiality of these relations.

I avail myself of this occasion to offer to your excellency the renewed assurance of my highest consideration.

A copy of this telegram has been handed to the Russian ambassador here for his information.

KNOX.

File No. 711.612/62b.

WASHINGTON, *December 15, 1911—12 p. m.*

Referring to Department's instruction December 15, 11 p. m. To forestall passage by the Senate Monday of the resolution abrogating the treaty, already passed by the House, it will be necessary that I hear from you absolutely not later than Sunday afternoon that you have presented the note according to that instruction, and that the situation is such that it will be agreeable to the Russian Government for me to make public announcement in the following general sense:

It having been mutually agreed between the two Governments that the treaty of 1832 was imperfect in various respects and had given rise to occasional misunderstandings, the question of negotiating a new treaty has for the last three years been under consideration. As a result of recent pourparlers the Government of the United States has given the formal diplomatic notice of termination in accordance with the terms of the treaty, upon an understanding between the two Governments that between now and January 1, 1913, every effort will be made to negotiate a more modern treaty of friendship, commerce, and navigation which shall be more responsive to the interests of the two Governments and adequate to the needs of their important relations.

KNOX.

File No. 711.612/62.

The American Ambassador to the Secretary of State.

[Telegrams.]

AMERICAN EMBASSY,
St. Petersburg, December 16, 1911.

Sazanoff, in an interview on the Jewish question with me said yesterday afternoon: "In regard to the vote of the House on the abrogation of the treaty it is incomprehensible that the United States should deliberately consider the sacrifice of a present and prospective market of hundreds of millions of dollars, knowing that Russia in return sold so very little to the United States." I explained to him that the nature of the American people was completely misunderstood in Europe; that the nation was in no way materialistic in its temperament, but on the contrary was more easily appealed to by questions of sentiment where the appeal was made on the ground of humanity and civilization than any other nation in the world; and that, whether mistaken or not, if they believed in a

cause they were ready to make any sacrince for its accomplishment. I explained frankly that the action of the House was unquestionably influenced by a sincere conviction that such action might have far-reaching results in inducing Russia to abandon not only restriction of foreign Jews but restriction of her own Jews, and pointed out that from the American point of view absolute freedom of speech and freedom of movement appeared to be the best cure for treason and conspiracy, by removing any possible grievance. He very courteously but with much emphasis declared that what might be true in America was not true in Russia and that the United States did not appreciate the Russian situation. He added, not cynically but seriously, that he was prepared to consider an arrangement by which the United States might cooperate for the transfer of all Jews from Russia to the United States. He said that Russian experience was that their presence in Russia was a perpetual menace, not only to the integrity of the Empire, but to law and order. He further confirmed the previous statements of his associates to me that if the treaty of 1832 should be abrogated Russia would never consent even to consider another treaty that did not explicitly give both nations the same right to exclude general classes of persons, deemed by each respectively to be undesirable, that he claims the United States now exercises. He quoted again the familiar illustration of our exclusion of Russian subjects under the treaty. He said that we should appreciate that restriction of undesirable citizens, among whom in Russian eyes the Jew stands chief, is no question of sentiment but a matter of national existence. I called his attention to certain newspaper statements in regard to bills now said to be before the Duma, not only abolishing passport restrictions but also abolishing the Jewish pale. He explained that though some radical members might present such bills, not only would the Government be unable, especially with the present excited feeling against the Jews, to take up such bills, but that neither the present Duma nor any Duma likely to be chosen would consent to their adoption. In regard to the betterment of present conditions he confirmed my interpretation to you of the recent ruling, that the Russian Government, while refusing, as a matter of principle, to accept any Jew whom the United States chooses to send, regardless of his character or previous record as a violator of Russian laws, yet is perfectly willing to admit for temporary sojourn any respectable American Jew who can show reasonable grounds why, for business affairs, it is necessary that he should visit Russia. He repeated in substance the interview telegraphed December 14, to the effect that Russia could never accept a policy of absolutely free admission, by which the United States or any other nation would be given the power to send back into Russia a Jewish Nihilist, for example, to plot against the Empire, merely on the ground that he had remained long enough out of Russia to be naturalized as a foreign subject or citizen.

GUILD.

File No. 711.612/64.

ST. PETERSBURG, *December 17, 1911.*

Referring to the Department's telegram of December 15, 11 p. m., and December 15, 12 midnight, I presented the note as directed in accordance with instructions to the minister for foreign affairs.

Sazanoff, as always, received me personally with perfect courtesy, but expressed emphatically his surprise at the action of the Government of the United States, which he regarded as most unfriendly. The request for any answer from Russia within 24 hours he finds a departure from all diplomatic procedure; and this suggestion, however cautiously conveyed, can not be acted upon because it is impossible to call the council of ministers together on Sunday; and until all the ministers can be called together no answer or public statement of any kind can be authorized.

The note having been presented and notice given of the termination of the treaty, he felt himself unable even to listen, either in private or official conversation, to any agreement as to a public announcement of any kind. Russia's position is that she has faithfully observed the treaty, and that the action of the United States is unaccountable.

The situation is such that the note will be regarded as not having been formally presented until Monday afternoon. Once formally presented no amicable discussion of the question is possible, Russia taking the ground that no self-respecting nation can act under pressure from abroad.

GUILD.

The Secretary of State to the American Ambassador.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 17, 1911.

The note having been dated and in fact presented to-day, in accordance with the instructions of December 15, 11 p. m., this Government must so regard it.

You were, of course, not instructed to make any request for a reply, so that the remarks of the minister for foreign affairs were evidently made through some misunderstanding.

By the confidential telegram of December 15, midnight, you obviously were not instructed to make any diplomatic representation. The Department was actuated solely by its usual desire to counteract in all possible ways any erroneous impressions of a disagreeable situation between the two Governments, and not doubting a similar disposition on the part of the Russian foreign office, I instructed you merely to explain the tone in which I intended to make public the action taken, with a view to any suggestions the minister for foreign affairs might offer. Since this evidently was not made clear you will withdraw the suggestion, and I shall make the matter public in some manner equally considerate of the friendly relations between the two Governments.

Since his arrival the Russian ambassador here has been most frankly conferred with and apprised of each change of the situation. According to universal diplomatic practice there is nothing unfriendly in the giving of notice to terminate a treaty in the courteous manner provided for this purpose by the treaty itself. As your instructions clearly show, and as the Russian ambassador here well knows, it was precisely friendship for Russia which caused the President to take this action as the sole mode of avoiding immediate

legislative action in terms to which there might be objection as not appropriate to our historic relations.

You will hand a copy of this telegram textually to the minister for foreign affairs.

KNOX.

File No. 711.612/66.

The American Minister to the Secretary of State.

[Telegrams.]

ST. PETERSBURG, *December 18, 8 p. m.*

Your telegram of December 17, 9 p. m. I regret it if my telegram of December 17, 5 p. m., misled you. I first presented the note as ordered, saying that a more exact copy would be delivered to-day when certain words had been repeated. I made no diplomatic representations, but, prefacing my remarks by asking for unofficial conversation, proceeded as directed to explain the tone of the note. I was explicitly instructed in your telegram of December 15, 12 midnight, to secure "not later than Sunday afternoon" Russia's consent to an amicable public announcement. It was the answer to this suggestion, not the answer to the note, that Sazanoff said could not be given in 24 hours.

The mere presentation of any note, and not your suggestion, was what roused his anger, Russian official taking the view that the United States, in trying to force Russia to receive all Jews, is seeking to destroy the Russian Empire. He refused to permit me even to explain in full your suggestion in regard to the announcement.

Corrected copy in English, with translation in French, were presented to the minister for foreign affairs this afternoon at 5.30, in accordance with your instructions in the telegram of December 17, together with complete text of that telegram, as ordered.

The minister for foreign affairs confirmed his statement of yesterday, as above explained; confirmed his understanding that the action of the President was to prevent more disagreeable action by Congress; and, while regretting the impossibility of agreeing on a newspaper statement by both countries as proposed, he promised immediate answer to the formal note.

GUILD.

File No. 711.612/67.

ST. PETERSBURG, *December 18, 11 p. m.*

In confirmation of December 18, 8 p. m., I have the honor to transmit translation of official answer to note, just received:

In note No. 72 of December 4/17 your excellency has transmitted to me official notification of the United States Government, provided by Article XII of the treaty of 1832, in accordance with which said treaty will cease to be in force on December 19, 1912/January 1, 1913.

At the same time you stated that in the meanwhile your Government is desirous of entering into negotiations for the conclusion of a new treaty of friendship, commerce, and navigation on a basis which would better answer the requirements of both countries.

Taking due notice of the aforesaid, I take advantage of this occasion, sir, to express my distinguished consideration.

SAZANOFF.

GUILD.

SALVADOR.

MESSAGE OF THE PRESIDENT.

File No. 816.032.

[Translation of extract concerning the United States.]

I have given particular attention to increasing the cordiality of our relations with the United States of America, whose altruistic spirit toward the other nations of this continent I take pleasure in recognizing and proclaiming. * * *

FERNANDO FIGUEROA.

February 8, 1911.

REPORT OF THE MINISTER FOR FOREIGN AFFAIRS FOR THE YEAR 1910, SUBMITTED FEBRUARY 13, 1911.

[Translation of extract concerning the United States.]

The United States of America.

It is satisfactory to bear witness to the cordial friendship with which our relations with the American Government continue to be carried on. We maintain in Washington a permanent legation * * * and the American Government maintains in this capital its legation. * * * The Government of the United States, through its legation, submitted to the foreign office under my charge an interrogatory regarding the provisions of our legislation with respect to judicial personality, access to the tribunals, the responsibility of public officials, and other topics relating to the method of obtaining by legal procedure indemnity for individuals who have been injured in their rights by acts of the authorities. Considering the matter of great importance, I replied at length to the points in the interrogatory, maintaining always the principle that every claimant, native or foreigner, should make his claim before our courts, since every department of the Government has a prescribed procedure adequate for adjusting such claims.

Under instruction from the Department of State his excellency the American minister, Mr. Heimke, addressed our chancellery with regard to the provisions contained in our laws relating to the illegal use of the emblem of the Red Cross, and the repression of the abuses that might be committed in regard to it, as well as for its protection in the future. Reply was made that as yet no laws have been passed for the protection of that emblem, there being observed only the provisions of the Geneva Convention, to which El Salvador adheres. Under date of July 14, 1910, a note was addressed to the American Legation, inclosing the trade-mark law passed by last year's assembly, and promulgated on June 11 of the same year, which contains various provisions tending to guarantee the distinctive marks and emblems of the Red Cross against use as marks of manufactures or commercial products.

Our minister at Washington reported in a note of March 12, 1910, that the Director of the International Bureau of American Republics had advised him that the governing board had decided to increase the quotas for the bureau for the fiscal year beginning July 1, 1910, on account of the increased expenses caused by removal of the bureau to the new building erected expressly for the purpose, the quota of El Salvador being $838.79, based upon the total population of the Republic. The Government accepted the decision of the governing board, it being in accord with the provisions of the conventions establishing that international center and of which El Salvador is a signatory party.

On the 26th of April, 1910, the new and sumptuous building of the International Bureau of American Republics was formally dedicated, in the presence of the officials of the Washington Government and the Diplomatic Corps accredited to that capital.

On August 5, the Congress of the United States passed a new tariff law in which authority is given to the President to apply the minimum tariff to foreign products imported from a country in which no undue discrimination is made against North American products and merchandise. By virtue of this law coffee and the other products of our soil which would have been imported into the United States after March 31, 1910, would have been subject to an additional duty of 25 per cent ad valorem, to the great detriment of our agricultural interests. The Government instructed our minister at Washington to demonstrate to the Department of State the great advantages enjoyed by North American commerce in the free importation of those articles which according to our tariff law do not pay any import duty, such as machinery. Statistics were prepared showing the great quantities of such articles imported into El Salvador from North American markets, free of duty. The result was the proclamation by President Taft on February 28, 1910, directing that, in compensation for our liberal concessions, the products of El Salvador enjoy the benefit of the minimum tariff on being imported into the United States.

Our legation has taken steps which obtained from the Post Office Department at Washington orders for the better packing of parcel post packages.

In a note dated June 7, 1910, the American minister informed our chancellery that because of reductions in import duties conceded to France and Germany in favor of certain articles imported from those countries, similar articles produced by North American soil and industry were suffering an unfavorable discrimination in their importation into our country by the application to them of the ordinary tariff, and he respectfully requested that our chancellery give the matter its careful attention. In a note of June 7, 1910, the ministry replied that a great part of the duties received is pledged for the payment of debts due from our Government to various foreign creditors, the amortization of which has not yet been completed. For this reason the Government is unable to concede to any other country a benefit which would be to the detriment of the said creditors, since not only could we ill afford to diminish the revenues but also because a reduction would be prejudicial to rights legitimately acquired; for it is a universal principle of jurisprudence that the debtor can not reduce the value of the pledge given to the creditor as a guaranty of

his debt. The Government was therefore unable to concede to other States the treatment accorded to France and Germany when the circumstances referred to stood in the way * * *.

DOCTOR SALVADOR RODRÍGUEZ GONZÁLEZ.

EXTRADITION TREATY BETWEEN THE UNITED STATES AND SALVADOR.

Signed at San Salvador, April 18, 1911; ratification advised by the Senate, May 22, 1911; ratified by the President, June 8, 1911; ratified by Salvador, May 11, 1911; ratifications exchanged at San Salvador, July 10, 1911; proclaimed, July 13, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, a treaty between the United States of America and the Republic of Salvador providing for the mutual extradition of fugitives from justice was concluded and signed by their respective plenipotentiaries at San Salvador on the eighteenth day of April, one thousand nine hundred and eleven, the original of which treaty, being in the English and Spanish languages, is word for word as follows:

TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND EL SALVADOR.

The United States of America and the Republic of El Salvador having judged it expedient, with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with or convicted of the crimes and offenses hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a treaty for that purpose, and have appointed as their plenipotentiaries—

The President of the United States of America, William Heimké, envoy extraordinary and minister plenipotentiary of said United States, at San Salvador, and the President of the Republic of El Salvador, Don Manuel Castro Ramírez, under secretary of state in the department of foreign relations, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

It is agreed that the Government of the United States and the Government of El Salvador shall, upon mutual requisition duly made as herein provided, deliver up to justice any person who may be charged with, or may have been convicted of any of the crimes specified in Article II of this treaty committed within the jurisdiction of one of the contracting parties, who shall seek an asylum or shall be found within the territories of the other, provided that such

surrender shall take place only upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged shall be found would justify his apprehension and commitment for trial if the crime or offense had been there committed.

ARTICLE II.

Persons shall be delivered up according to the provisions of this treaty, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of parricide, assassination, manslaughter when voluntary; poisoning or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of twelve years.

4. Mayhem and other wilful mutilation causing disability or death.

5. Bigamy.

6. Arson.

7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.

8. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the law of nations, or by statute;

(b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence taking possession of such vessel;

(d) Assault on board ships upon the high seas with intent to do bodily harm.

9. Burglary, defined to be the act of breaking into and entering the house of another in the nighttime with intent to commit a felony therein.

10. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, saving banks, trust companies, insurance companies, or other buildings not dwellings, with intent to commit a felony therein.

11. Robbery, defined to be the act of feloniously and forcibly taking from the person of another goods or money by violence or by putting him in fear.

12. Forgery or the utterance of forged papers.

13. The forgery or falsification of the official acts of the Government or public authority, including courts of justice, or the uttering or fraudulent use of any of the same.

14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, local, or municipal governments, banknotes or other instruments of public credit, counterfeit seals, stamps, dies, and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

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15. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars (or Salvadorean equivalent).

16. Embezzlement by any person or persons hired, salaried, or employed, to the detriment of their employers or principals, when the crime or offence is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars (or the Salvadorean equivalent).

17. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

18. Larceny, defined to be the theft of effects, personal property, horses, cattle, or live stock, or money, of the value of twenty-five dollars (or Salvadorean equivalent) or more, or receiving stolen property of that value, knowing it to be stolen.

19. Obtaining money, valuable securities, or other property by false pretenses or receiving any money, valuable securities, or other property, knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars (or Salvadorean equivalent).

20. Perjury or subornation of perjury.

21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by anyone in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars (or Salvadorean equivalent).

22. Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.

23. The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both contracting parties.

ARTICLE III.

The provisions of this treaty shall not import claim of extradition for any crime or offence of a political character, nor for acts connected with such crimes or offences; and no person surrendered by or to either of the contracting parties in virtue of this treaty shall be tried or punished for a political crime or offence. When the offence charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offence was committed or attempted against the life of the sovereign or head of a foreign State, or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime or offence was of a political character, or was an act connected with crimes or offences of a political character.

If any question shall arise as to whether a case comes within the provisions of this article, the decisions 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 IV.

No person shall be tried or punished for any crime or offence other than that for which he was surrendered without the consent of the Government which surrendered him, which may, if it think proper, require the production of one of the documents mentioned in Article XI of this treaty.

ARTICLE V.

A fugitive criminal shall not be surrendered under the provisions hereof when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offence for which the surrender is asked.

ARTICLE VI.

If a fugitive criminal whose surrender may be claimed pursuant to the stipulation hereof, be actually under prosecution, out on bail, or in custody, for a crime or offence committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII.

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII.

Under the stipulations of this treaty, neither of the contracting parties shall be bound to deliver up its own citizens.

ARTICLE IX.

The expense of the arrest, detention, examination, and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X.

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offence, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of either of the contracting parties, be delivered up with his person at the time of the surrender. Nevertheless the rights of a third party with regard to the articles aforesaid shall be duly respected.

ARTICLE XI.

The stipulations of this treaty shall be applicable to all territory wherever situated, belonging to either of the contracting parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties. In the event of the absence of such agents from the country or its seat of government, requisition may be made by superior consular officers.

It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

The extradition of fugitives under the provisions of this treaty shall be carried out in the United States and in the Republic of El Salvador, respectively, in conformity with the laws regulating extradition for the time being in force in the State in which the request for the surrender is made.

ARTICLE XII.

Where the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of formal proof, complaint on oath, as provided by the statutes of the United States, shall be made by an agent of the Government of El Salvador before a judge or magistrate authorized to issue warrants of arrest in extradition cases.

When, under the provisions of this article, the arrest and detention of a fugitive are desired in the Republic of El Salvador, the proper course shall be to apply to the foreign office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender accompanied by the necessary evidence of his guilt has not been produced under the stipulations of this treaty, within two months from the date of his provisional arrest or detention.

ARTICLE XIII.

In every case of a request made by either of the two contracting parties for the arrest, detention, or extradition of fugitive criminals the legal officers or fiscal ministry of the country where the proceedings of extradition are had shall assist the officers of the Government demanding the extradition before the respective judges and magistrates by every legal means within their or its power, and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided, however, that any officer or officers of the surrendering Government so giving assistance who shall, in the usual course of their

duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIV.

The conveyance through the territories of either of the high contracting parties of any person, not being a citizen of the country to be passed through, extradited by a third power to either of them for any of the crimes specified in this treaty, will be permitted if, in the case of the United States, the authority of the Secretary of State and, in that of El Salvador, that of the minister of foreign relations, is first obtained.

ARTICLE XV.

This treaty shall take effect from the day of the exchange of the ratifications thereof, but either contracting party may at any time terminate the same on giving to the other six months' notice of its intention to do so.

The ratifications of the present treaty shall be exchanged at San Salvador or at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles and have hereunto affixed their seals.

Done in duplicate at the city of San Salvador this eighteenth day of April, one thousand nine hundred and eleven.

[SEAL.] WILLIAM HEIMKÉ.
[SEAL.] M. CASTRO R.

And whereas the said treaty has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of San Salvador on the tenth day of July, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony 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 thirteenth day of July, in the year of our Lord one thousand nine hundred and eleven, and of the independence of the United States of America the one hundred and thirty-sixth.

[SEAL.] WM. H. TAFT.

By the President:

HUNTINGTON WILSON,
Acting Secretary of State.

SIAM.

OBSEQUIES OF THE LATE KING CHULALONGKORN—CORONATION OF KING MAHA VAJIRAVUDH.

File No. 892.001/43.

The American Minister to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bangkok, February 10, 1911.

Diplomatic corps has been informed that it would be agreeable to Siamese King if resident diplomatists should be specially accredited with credentials for the occasion of cremation of late King, March 13 to 16. Unsolicited, minister for foreign affairs proposed that on account of short time a telegram from the President to the King will serve as credentials.

KING.

The Secretary of State to Minister for Foreign Affairs of Siam.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 28, 1911.

I have the honor to inform Your Royal Highness that the American minister at Bangkok, Mr. Hamilton King, has been designated as special representative of the President of the United States on the occasion of the cremation of the remains of His Late Majesty Chulalongkorn, and to request that he may be favorably received in such capacity.

KNOX.

The Secretary of State to the American Minister to Siam.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 28, 1911.

You will attend ceremonies connected with the cremation of late Chulalongkorn as the special representative of the President. I have so cabled minister for foreign affairs.

KNOX.

File No. 892.001/45.

The Minister for Foreign Affairs of Siam to the Secretary of State.

[Telegram.]

BANGKOK, *March 1, 1911.*

I received with thanks your excellency's telegram announcing that the American minister at Bangkok has been designated as special representative of the President of the United States at the cremation of the remains of His Late Majesty, King Chulalongkorn.

I beg to say that His Majesty, my August Sovereign, is profoundly touched by the courtesy thus shown and that the American minister will be favorably received in the capacity your excellency desires.

DEVAWONGSE.

File No. 892.001/46.

The American Minister to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bangkok, March 16, 1911.

The cremation of the late King of Siam took place to-day in the presence of an immense concourse of people. The best of order prevailed.

KING.

File No. 892.001/43.

The American Minister to the Secretary of State.

No. 722. AMERICAN LEGATION,
Bangkok, March 25, 1911.

SIR: I have the honor to report that on yesterday morning, March 24, 1911, the final ceremonies connected with the cremation of the late ruler of Siam, King Chulalonkorn, were completed and the ashes laid to rest in the grand palace, Maha Chakri, amidst those of the rulers who have preceded in this line.

To the occidental the marked feature of the entire occasion has been that of oriental pomp and splendor. Yet, as compared with the reckless cost of life and treasure expended on similar occasions in the past, the present marks a striking advance toward the modern and more practical age. The towering superstructure for inclosing all, and which heretofore had cost hundreds of lives of slaves in the fever-infested jungles, was omitted and all the labor employed was regularly paid. And, perhaps most striking of all, large sums heretofore expended on the theatrical display and oriental amusement on such occasions were distributed among the educational, medical, charitable, and religious institutions throughout the Kingdom, irrespective of nationality or of creed. And this expenditure was made along lines to meet the special needs of the respective institutions

as named by committees representing each. In this manner about $2,000 gold worth of goods was distributed among the American institutions in this country. The distribution of these gifts by an order from the King's own hand to the respective representatives of the several institutions formed a feature of the occasion on the afternoon of three days of the ceremonies.

A marked evidence of the manner in which the new King is received by his people, as well as of the profound respect in which his father was held, has been manifest in the excellent order that has prevailed throughout these entire ceremonies.

I have, etc.,

HAMILTON KING.

File No. 892.001/50.

The Chargé d'Affaires of Siam to the Secretary of State.

SIAMESE LEGATION,
Washington, July 24, 1911.

SIR: In accordance with instructions received from His Royal Highness Prince Devawongse Varoprakar, minister for foreign affairs, I have the honor to inform you that, as the period of mourning observed for the death of His Majesty the late King Chulalongkorn expires in October next, a date about the end of November following has been fixed for the formal coronation of His Majesty Maha Vajiravudh, King of Siam, my August Sovereign, and for the royal and national festivities in connection with that auspicious celebration.

I am further directed to intimate that His Majesty, recalling with sincere gratification the sentiments of friendship and sympathy which prompted President Taft to appoint an official to represent him at the cremation of His Majesty the late King, would welcome and highly appreciate the presence of a special American representative on the forthcoming solemn occasion, and to assure you that should it be the pleasure of the President of the United States to send a special representative to Bangkok in November next he would be accorded a most cordial reception as the guest of His Majesty and of the Siamese Government.

In conclusion may I request you to be so good as to bring this to the knowledge of the President and to let me know his intention in due course in order that, should he decide to send a special representative, I may have the pleasure of notifying my Government, by whom proper arrangements would be made for his special reception and entertainment in Siam.

I have, etc.,

LUANG SANPAKITCH.

File No. 892.001/50.

The Secretary of State to the Chargé d'Affaires of Siam.

No. 21. DEPARTMENT OF STATE,
Washington, August 11, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo, by which you are so good as to make known the

pleasure with which His Majesty the King of Siam would welcome the presence of a special representative of the United States on the occasion of his formal coronation in November next.

Highly appreciative of His Majesty's gracious pleasure, the President will in due course take the necessary steps to have the United States appropriately represented on this occasion.

Accept, etc.,

P. C. KNOX.

File No. 892.001/65.

The Acting Secretary of State to the American Minister to Siam.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 25, 1911.

Letter accrediting you as President's special representative at coronation mailed to-day.

ADEE.

File No. 892.001/72a.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 7, 1911.

Department's October 25, 12 noon. You will be assisted at coronation by Col. Lea Febiger, Sixth Infantry, United States Army, representing the War Department. He is now in Philippines and will report to you at Bangkok November 28. Not possible for formal credentials to reach him. Notify Siamese Government.

ADEE.

File No. 892.001/77a.

The Secretary of State to the American Minister to Siam.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 17, 1911.

You are accredited as special representative of the President at coronation. This gives rank of ambassador extraordinary and plenipotentiary.

KNOX.

File No. 892.001/78.

The President to the King of Siam.

[Telegram.]

THE WHITE HOUSE,
Washington, December 1, 1911.

I extend to Your Majesty cordial felicitations on this auspicious occasion and assure you of the friendship of the Government and people of the United States and of their best wishes for the welfare of Your Majesty and the happiness of the people over whom you have been called to reign.

W. H. TAFT.

File No. 892.001/81.

The King of Siam to the President.

[Telegram.]

BANGKOK, *December 2, 1911.*

Please accept my heartfelt thanks for the cordial felicitations and assurances of friendship and good will on part of your Government and people, which I highly value.

VAJIRAVUDH.

SPAIN.

INTERPRETATIONS OF ARTICLE 23 AND ARTICLE 27 OF THE TREATY OF FRIENDSHIP AND GENERAL RELATIONS OF JULY 3, 1902, BETWEEN THE UNITED STATES AND SPAIN.[1]

INTERPRETATION OF ARTICLE 23.

[Continued from Foreign Relations, 1910, page 851.]

File No. 711.5211/1.

The Minister of Spain to the Secretary of State.

[Translation.]

SPANISH LEGATION,
Washington, September 28, 1911.

MR. SECRETARY: Referring to the previous correspondence exchanged between His Majesty's legation and the department under your excellency's worthy charge in regard to the killing of the steward of the steamship *Vivina*, in the port of Pensacola, Fla., I have the honor to inform you that, having forwarded in due course to my Government the contents of your excellency's note dated December 7, 1910, on the subject, I have received instructions to say in reply thereto that His Majesty's Government, without derogating from the views it has expounded on this point, accepts, in view of the said note and the interpretation therein placed on article 23 of the treaty of friendship and general relations in force between the two countries, the position of the United States, and will observe hereafter the strictest reciprocity when cases like that under consideration arise in the Spanish ports.

I avail, etc.,

JUAN RIAÑO.

INTERPRETATION OF ARTICLE 27.

File No. 711.5221.

The Minister of Spain to the Secretary of State.

[Translation.]

SPANISH LEGATION,
Washington, September 28, 1911.

MR. SECRETARY: I have the honor to apply to your excellency's sound judgment for an opinion as to a conclusion reached by the probate judge of the city of New York on the occasion of the assumption by the consul general of Spain of the office of representative of absent heirs with a view to collecting an indemnity.

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[1] See Foreign Relations 1903, p. 728.

The facts are as follows: In connection with the death in New York of the Spanish subject José Pérez Suárez, resulting from an accident in the elevator of Hotel Martinica, where he was employed, a relative of the deceased named José Pérez arrived in that city with a power of attorney of the family to claim the indemnity that might be allowed, and the court of New York awarded the sum of $300 to the family, besides $50 more, the property of the decedent. But Pérez, finding that his inability to file a bond made it difficult for him to collect the above said sums, transferred the power to the consulate general of Spain at New York, as being the sole and legal representative of the absent heirs.

The surrogate office now declines to issue the order for the payment of the $350 to the consulate unless the consul first file a bond in double the amount, alleging that the local law explicitly requires the bond and makes no exception for consuls.

The treaty of friendship and general relations between Spain and United States ratified at Madrid April 14, 1903, makes no mention or determination of the obligation to file bonds in the case of consular or diplomatic officers of the two countries, since, bearing in mind the representative character with which the officials of both countries are vested, it seems to disparage the respective nations which they represent to subject consular officers to a bond for acts in which they assume representation and responsibility, their office offering sufficient guarantee for the action taken by them in behalf of others in the discharge of their official duties.

On the strength of the two reasons above stated, I venture to ask, invoking the high sense of the Federal authority under whose protection the prestige of foreign representation is placed, that your excellency will be pleased to take steps to have the surrogate office desist from its demand that the consul general of Spain at New York shall file the bond which it makes a condition of the exercise of functions that appertain to his office.

I avail, etc.,

JUAN RIAÑO.

File No. 711.5221.

The Acting Secretary of State to the Minister of Spain.

No. 83.] DEPARTMENT OF STATE,
Washington, October 21, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo relative to the requirement of the probate court in the city of New York that the Spanish consul general in that city, representing the heir of the late José Pérez Suárez, first furnish a bond before turning over to him $350, representing the estate of the decedent.

There is no provision in the treaty of friendship of 1902 between the United States and Spain authorizing Spanish consular officers to collect, without furnishing the bond required by the local law, moneys belonging to the estates of one of their deceased fellow countrymen in the United States; nor is the Department aware of any rule of international law requiring that such bond be dispensed with. The

treaty provision is that consular officers shall have, *so far as compatible with local laws*, the right of representing the absent, unknown or minor heirs, next of kin, or legal representatives; and that until the appearance of the heirs or legal representatives the said consular officers shall be permitted, *so far as compatible with local laws*, to perform all the duties prescribed by the laws of their own country for the safeguarding of the property and the settlement of the estates of their deceased fellow countrymen.

The question whether, under the most-favored-nation clause of a treaty (like article 27 of the treaty with Spain) and by referring to article 9 of the treaty of 1853 with the Argentine Republic, consular officers have a right to administer in preference to the public administrator, has been differently determined in the courts of different States. A case involving this question is now pending in the Supreme Court of the United States, where it was taken on appeal from the Supreme Court of California. But in the case of Wyman *v.* McEvoy (191 Mass., 276), where it was decided that a consular officer in such case had a right to administer, paramount to that of the public administrator, it was held that the consular officer, who had applied for letters of administration, should be required to give a bond and to conduct himself in other respects as would any other administrator.

If the decision of the probate judge of New York City is deemed incorrect, the parties in interest may, if they so desire, test the matter by bringing the case upon appeal before the appropriate superior court.

Accept, etc.,

ALVEY A. ADEE.

File No. 711.5221.

The Secretary of State to the Minister of Spain.

No. 87.] DEPARTMENT OF STATE,
Washington, November 7, 1911.

SIR: Referring to the Department's note to you of October 21, 1911, relative to the bond required of the Spanish consul general in New York by the probate court of that city in the administration of the estate of the late José Pérez Suárez and to subsequent oral communications on the same subject, I have the honor to call your attention to article 27 of the treaty of July 3, 1902, which provides in substance that the effects and property of deceased citizens or subjects shall be retained within the consular district for 12 months by the consular officer, legal representative, or heirs of the deceased person, during which time the creditors, if any, of the deceased shall have the right to present their claims against the deceased's estate. The main purpose of this stipulation is clearly to safeguard the interests of possible creditors having demands against the effects or property of the deceased, and the New York law requiring the customary bond in cases of administration, as understood by the Department, has the same purpose and is therefore not inconsistent with this article of the treaty. Moreover, this requirement of the New York law has no specific relation to the representative character in which the consul

general in this case is acting in behalf of the heirs of the deceased as well as of their duly appointed attorney-in-fact. In view of the above stipulations of article 27 of the treaty, and of the requirement of New York practice consistent therewith, the Department believes that the demand of the court for a bond in the case in question will be found to be not an unusual or unreasonable procedure in such cases.

The Department is of the opinion that this matter may be satisfactorily arranged by the Spanish consul general taking out a bond through the agency of some bonding or security company, of which there are many in New York City. It is believed that the charge for this service will be found moderate and may, if the usual custom is followed, be paid out of the estate in question.

If you will inform the Department should any further difficulties be experienced in this matter, it will be glad to render you every possible assistance.

Accept, etc.,

P. C. KNOX.

INTERPRETATION OF THE EXTRADITION TREATY OF JUNE 15, 1904, BETWEEN THE UNITED STATES AND SPAIN.[1]

File No. 211.52L89.

The Minister of Spain to the Secretary of State.

[Translation.]

SPANISH LEGATION,
Washington, March 2, 1911.

MR. SECRETARY: I have just received a telegram from the minister of state instructing me to ask of your excellency the provisional detention of Tomás Loscesta and Lazareto Calvo who are to arrive in New York aboard the steamship *Bretagne*.

Proposing to forward to your excellency as soon as they come to hand the papers referring to the offense on which the requisition of His Majesty's Government is based, I beg your excellency to be so good as to issue as soon as possible the requisite orders for the provisional detention of the said persons on their arrival in New York.

I avail, etc.,

JUAN RIAÑO.

File No. 211.52L89.

The Secretary of State to the Minister of Spain.

DEPARTMENT OF STATE,
Washington, March 3, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant asking the Department to issue the requisite orders for the provisional detention of Tomás Loscesta and Lazareto Calvo, who are expected to arrive in New York on the steamship *Bretagne*.

Your note does not state the offense with which the parties are charged. In order to procure the provisional detention of the ac-

[1] See Foreign Relations 1908, p. 723.

cused it will be necessary for the consular representative of your Government in New York, or some other person acting in its behalf, to go before a magistrate authorized to act in extradition cases and make complaint under oath, charging the fugitives with an offense enumerated in the treaty of extradition between the two countries, whereupon the magistrate will issue a warrant for their apprehension in order that they may be brought before him and the evidence of criminality heard and considered. Such action may be taken by your consular or other representative either with or without the mandate or preliminary warrant provided for in article 11 of the treaty, which will be issued to you by this Department upon your request, stating the offense with which the parties are charged.

It has been ascertained at the Department that the steamship *Bretagne* is not expected to arrive in New York at this time, but that the vessel is just sailing from New York.

Accept, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 211.52L89/2.

The Minister of Spain to the Secretary of State.

[Translation.]

SPANISH LEGATION,
Washington, March 8, 1911.

MR. SECRETARY: In your excellency's note of the 6th instant[1] I had the honor to receive the warrant of provisional arrest which I had asked for of your excellency against Tomás Loscesta and Lazareto Calvo, under trial before the Spanish courts for the unlawful taking possession of property, in accordance with article 536 of the Spanish penal code, this crime being extraditable according to section 20 of article 11 of the treaty of extradition between the two countries.

Without losing a moment I transmitted it to the consul general of Spain at New York, with a copy of your excellency's note of the 3d instant, in order that, in accordance with its text and with the provisions of the extradition treaty, he might appear before the proper magistrate and, taking the oath prescribed in said international document, request the provisional arrest of the fugitives.

The consul general of Spain at New York has just informed me that Judge Shields, in charge of extradition matters, has refused to recognize the competence of the consul general of Spain for the request in question and requires that he make it through an attorney.

I call your excellency's attention to the attitude of Judge Shields because, besides the fact that this requirement is not contained either in the treaty or in the instruction of your Department, given in your excellency's note of the 3d instant, the loss of time in consequence of the formalities required, in my opinion unduly, by the aforementioned judge, may result in the fugitives frustrating justice.

Judge Shields has moreover demanded particulars connected with the case which the consul general can not furnish and which will be thoroughly explained in the proper document which the Spanish

[1] Not printed.

courts will transmit within a period of two months, as stipulated by the treaty between Spain and this country.

I therefore appeal to your excellency's courtesy touching the disregard of rights stipulated in an international treaty, which seems to be made subordinate to the procedure and routine of a local law.

I avail, etc.,

JUAN RIAÑO.

File No. 211.52L89/2.

The Acting Secretary of State to the Attorney General.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 9, 1911.

The Spanish minister to whom, pursuant to the provisions of article 11 of the extradition treaty between the two countries, a preliminary mandate has been issued by this department for the arrest of Tomás Loscesta and Lazareto Calvo, charged in Spain with fraud by agents in a fiduciary position (sec. 20, art. 2 of treaty) reports that United States Commissioner John A. Shields, to whom the Spanish consul general in New York has presented the preliminary mandate, declines to act unless legal counsel is employed in behalf of the Spanish Government. I have the honor to request that you instruct the United States attorney at New York, by telegraph, to take the matter up with the Spanish consul general and assist him in securing the arrest of the accused parties, in pursuance of the provisions of article 13 of the treaty.

HUNTINGTON WILSON.

File No. 211.52L89/2.

The Acting Secretary of State to the Minister of Spain.

No. 34.] DEPARTMENT OF STATE,
Washington, March 9, 1911.

SIR: Referring to your request made to-day at the Department for the arrest at New York of Tomás Loscesta and Lazareto Calvo, charged in Spain with fraud, I have the honor to inclose copy of a telegram which has been sent to the Attorney General asking that the United States attorney at New York be instructed by telegraph to take the matter up with the Spanish consul general and to assist him in securing the arrest of the accused parties, in pursuance of article 13 of the extradition treaty between Spain and the United States. I also transmit herewith copy of the form of preliminary mandate.

Accept, etc. HUNTINGTON WILSON.

File No. 211.52L89/4.

WASHINGTON, *March 17, 1911.*

SIR: Referring to previous correspondence relative to the refusal of the United States commissioner at New York to cause the provisional arrest of Tomás Loscesta and Lazareto Calvo, whose ex-

tradition is desired by your Government, I have the honor to transmit herewith copy of a letter which has been received from the Attorney General, from which it appears that Commissioner Shields declined to cause the detention of the two men for the reason that the Spanish consul general at New York was unable to furnish sufficient information concerning the offense to warrant arrest under the treaty provisions between Spain and the United States.

Accept, etc.,

HUNTINGTON WILSON.

[Inclosure.]

The Attorney General to the Secretary of State.

DEPARTMENT OF JUSTICE,
Washington, March 14, 1911.

SIR: Referring further to your telegram of the 9th instant, requesting that the United States attorney be instructed to confer with the Spanish consul general and assist him in securing the arrest of Tomás Loscesta and Lazareto Calvo, charged in Spain with fraud, under the provisions of article 13 of the treaty, I have the honor to quote below for your information the essential portion of a letter under date of March 10, 1911, from United States Attorney Wise in the premises, to wit:

> Upon receipt of that telegram I immediately took the matter up with Commissioner Shields and learned from him that he had declined to act for the reason that the persons who presented this matter to him were unable to state what, if any, crime the persons were charged with. The papers which these persons presented to the Commissioner seemed to indicate that the parties desired had been guilty of some crime in the nature of a breach of trust, but did not disclose the time when or the place where the crime was committed, or the character of the offense or the persons who had been defrauded. The commissioner felt that the charge was insufficient and suggested that the persons presenting the matter to him see the counsel who usually represents the Spanish Government in such matters, who is Mallet-Provost, Esq., of the New York bar.
>
> Learning these facts from Commissioner Shields I endeavored to get into communication with the Spanish consul general, but found that he had gone for the day. This morning my representative has seen the consul general and was notified by him that he did not have any information and that the counsel of the consulate, Mallet-Provost, had informed him that it would be impossible to take any action in this matter until further facts had been obtained.

Very respectfully,
(For the Attorney General,)

W. R. HARR.

File No. 211.52L89/5.

The Minister of Spain to the Secretary of State.

[Translation.]

SPANISH LEGATION,
Washington, March 18, 1911.

Mr. SECRETARY: I have the honor to acknowledge receipt of the note your excellency was pleased to address to me under date of yesterday accompanied by a copy of the letter of the Department of Justice with a report of the United States attorney at New York forwarding the reasons advanced by Magistrate Shields for his denying the application of the consul general of Spain at New York requesting the execution of the preliminary warrant for the arrest of Tomás Loscesta and Lazareto Calvo issued by the department under your excellency's worthy charge, and for his thus violating the textual and clear provisions of the extradition treaty in force between Spain and the United States.

Magistrate Shield's claim that on making an application for provisional detention it is necessary to appear with counsel, state where, when, against whom, etc., the offense was committed—all of which are circumstances to be duly specified at the time when the formal requisition for the surrender of the criminal is formulated, and the enumeration of which is not required by the treaty to support the mere request of provisional detention—makes it impossible to effect the detention of a criminal requested under telegraphic instructions cabled by His Majesty's Government to its diplomatic representative at this capital, as has been the case in the present instance; the course taken by Magistrate Shields affords such a criminal ample opportunity to elude the action of justice and thus defeats the object of the compact so clearly and textually embodied in the convention above referred to.

The request for the extradition of persons sentenced or indicted by a competent tribunal of one of the two countries on account of offenses included as extraditable in Article II of the aforesaid extradition treaty of June 15, 1904, in force, must be made by the diplomatic or consular officers of the contracting parties (par. 2 of Art. XI) competent, in the very words of the convention, "to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought; whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that evidence of criminality may be heard and considered." (Par. 3 of Art. XI.)

So that the only requirement of the treaty in requests for the *preliminary arrest* of a fugitive from justice sentenced or indicted by a competent tribunal of either contracting party is that the diplomatic or consular officer presenting the request shall do so under oath that the person who is sought has been indicted or sentenced on the charge of an extraditable crime. This requirement was faithfully complied with by this diplomatic mission of His Majesty near the Department of State, and by the consul general of Spain before the extradition magistrate. The evidences required by him are clearly specified in the article which I have just submitted, word for word, to your excellency's consideration, to be for presentation *after the accused shall have been brought before* him. But in spite of the clearness of the text of the treaty and of international practice the only result thus far achieved in the case under consideration has been Magistrate Shields' refusal to carry into effect the preliminary warrant of arrest which your excellency was pleased to issue in compliance with the request made by me under concise telegraphic instructions from my Government and in accordance with the right conferred upon me to that effect by an international treaty whose clear and positive text is not open to interpretations.

Furthermore, the said treaty textually provides (Art. XII) that when the request is made by telegraphic direction of the Government it shall be competent for the judge or magistrate to hold the accused for a period not exceeding two months so that the demanding Government may have time to lay before such judge or magistrate the proofs of the criminal responsibility of the accused, which

proofs Magistrate Shields is in so unusual a hurry to demand before granting *provisional detention.* And in every case—the treaty goes on to say in its Article XIII—the request made by either of the two parties for the detention, arrest, or extradition of criminals *shall be attended to with diligence by every legal means;* but the attitude of the Federal authorities in regard to compliance with the terms of the existing extradition treaty has certainly not been characterized by such diligence.

I therefore beg your excellency to be pleased to issue the necessary orders to Magistrate Shields or to the official who may have charge of the cases of requests for provisional arrest analogous to that now under consideration, so that now and hereafter the terms of the existing extradition treaty between Spain and the United States may be faithfully observed, and that the stipulations of the said treaty may not be eluded for such reasons and requirements as have been offered by the aforesaid magistrate and which are wholly foreign to the treaty.

I shall be greatly obliged to your excellency if you will kindly acquaint me with the decision finally reached in the matter for the purpose of bringing, as it must be, so grave a question to the knowledge of my Government.

I avail, etc., JUAN RIAÑO.

File No. 211.52L89/5.

The Secretary of State to the Minister of Spain.

No. 37.] DEPARTMENT OF STATE,
Washington, March 27, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant relative to the action of United States Commissioner Shields in declining to cause the provisional arrest and detention of Loscesta and Calvo upon the application of the Spanish consul general unless the place, time, and name of party against whom the offense charged was committed were specified.

Referring to your quotation from paragraph 3 of article 11 of the treaty of extradition between the United States and Spain, I beg to call your attention to the language of the latter part of that quotation. After stating that it shall be competent for the diplomatic or consular officer of the contracting parties to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, it provides: "Whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon *complaint* made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered," etc. By this provision, which corresponds with the provisions of our extradition law, the authority of the magistrate to act in the case is based upon "a *complaint* made under oath." It is well settled by the decisions of the courts of the United States in extradition cases, that, while the complaint need not have the precision of an indictment, it is essential that it should set forth clearly the substance of the offense charged, so that the party ac-

cused may understand precisely what he is charged with. It must set forth the substantial and material features of the offense. (In re Farez, 7 Blatchford, 34; 5 Blatchford, 414; In re Adutt, 55 Fed. Rep., 376.) In the case of In re Farez, where the charge was forgery, the court held that it was not enough to charge in the complaint the crime of forgery generally, but that *time and place and the nature* of the forgery and of the forged instruments must be sufficiently specified. In the case of Ex parte Van Hovon (4 Dillon Reports, 411), also a case of forgery, which arose under the Belgian treaty which contains a provision using language almost identical with that contained in the Spanish treaty, a complaint was held insufficient which did not specify the kind of obligations forged, or the character of the papers, or the nature of the instruments of credit forged.

It would appear, from the letter of the Attorney General and from the statements in your note, that it was not possible for your consul general to make a complaint containing the allegations which are by our courts declared to be essential. Under these circumstances it is submitted that it can not be said that United States Commissioner Shields has failed to observe the stipulations of the treaty.

Accept, etc.,

P. C. KNOX.

SWEDEN.

CONVENTION BETWEEN THE UNITED STATES AND SWEDEN DEFINING THE RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS.

Signed at Washington, June 1, 1910; ratification advised by the Senate June 13, 1910; ratified by the President February 27, 1911; ratified by Sweden February 3, 1911; ratifications exchanged at Washington March 18, 1911; proclaimed March 20, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and the Kingdom of Sweden defining the rights, privileges, and immunities of consular officers was concluded and signed by their respective plenipotentiaries at Washington on the first day of June, one thousand nine hundred and ten, the original of which convention, being in the English and Swedish languages, is word for word as follows:

The President of the United States of America and His Majesty the King of Sweden, being mutually desirous of defining the rights, privileges, and immunities of consular officers of the two countries, and deeming it expedient to conclude a consular convention for that purpose, have accordingly named as their plenipotentiaries:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States of America; and

His Majesty the King of Sweden, Herman Ludvig Fabian de Lagercrantz, his envoy extraordinary and minister plenipotentiary at Washington;

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

ARTICLE I.

Each of the high contracting parties agrees to receive from the other consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, and consular agents in all its ports, cities, and places, except those where it may not be convenient to recognize such officers. This reservation, however, shall not apply to one of the high contracting parties without also applying to every other power.

ARTICLE II.

The consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, and consular agents of each of the two high contracting parties shall enjoy reciprocally, in the

States of the other, all the privileges, exemptions, and immunities that are enjoyed by officers of the same rank and quality of the most favored nation. The said officers, before being admitted to the exercise of their functions and the enjoyment of the immunities thereto pertaining, shall present their commission in the forms established in their respective countries. The Government of each of the two high contracting parties shall furnish the necessary exequatur free of charge, and, on the exhibition of this instrument, the said officers shall be permitted to enjoy the rights, privileges, and immunities granted by this convention.

ARTICLE III.

Consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, and consular agents, citizens of the State by which they are appointed, shall be exempt from arrest except in the case of offenses which the local legislation qualifies as crimes and punishes as such; they shall be exempt from military billetings, service in the Regular Army or Navy, in the militia, or in the National Guard; they shall likewise be exempt from all direct taxes—national, State, or municipal—imposed upon persons, either in the nature of capitation tax or in respect to their property, unless such taxes become due on account of the possession of real estate, or for interest on capital invested in the country where said officers exercise their functions, or for income from pensions of public or private nature enjoyed from said country. This exemption shall not, however, apply to consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, or consular agents engaged in any profession, business, or trade; but the said officers shall in such case be subject to the payment of the same taxes that would be paid by any other foreigner under the like circumstances.

ARTICLE IV.

When in a civil case a court of one of the two countries shall desire to receive the judicial declaration or deposition of a consul general, consul, vice consul, or consular agent, who is a citizen of the State which appointed him, and who is engaged in no commercial business, it shall request him, in writing, to appear before it, and in case of his inability to do so it shall request him to give his testimony in writing, or shall visit his residence or office to obtain it orally, and it shall be the duty of such officer to comply with this request with as little delay as possible; but in all criminal cases, contemplated by the sixth article of the amendments to the Constitution of the United States, whereby the right is secured to persons charged with crimes to obtain witnesses in their favor, the appearance in court of said consular officer shall be demanded, with all possible regard to the consular dignity and to the duties of his office, and it shall be the duty of such officer to comply with said demand. A similar treatment shall also be extended to the consuls of the United States in Sweden, in the like cases.

ARTICLE V.

Consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, and consular agents may place over the outer door of their offices the arms of their nation, with this

inscription: Consulate general or consulate, or vice consulate, or consular agency of the United States or of Sweden.

They may also raise the flag of their country on their offices, except in the capital of the country when there is a legation there. They may in like manner raise the flag of their country over the boat employed by them in the port and for the exercise of their functions.

ARTICLE VI.

The consular offices shall at all times be inviolable. The local authorities shall not, under any pretext, invade them. In no case shall they examine or seize the papers there deposited. In no case shall those offices be used as places of asylum. When a consular officer is engaged in other business, the papers relating to the consulate shall be kept separate. Nor shall consular officers be required to produce the official archives in court or to testify as to their contents.

ARTICLE VII.

In the event of the death, incapacity, or absence of consuls general, consuls, vice consuls general, vice consuls, and consular agents, their chancellors or secretaries, whose official character may have previously been made known to the Department of State at Washington or to the minister for foreign affairs in Sweden, may temporarily exercise their functions, and while thus acting shall enjoy all the rights, prerogatives, and immunities granted to the incumbents.

ARTICLE VIII.

Consuls general and consuls may, so far as the laws of their country allow, with the approbation of their respective Governments, appoint vice consuls general, deputy consuls general, vice consuls, deputy consuls, and consular agents in the cities, ports, and places within their consular district. These agents may be selected from among citizens of the United States or of Sweden, or those of other countries. They shall be furnished with a regular commission, and shall enjoy the privileges stipulated for consular officers in this convention, subject to the exceptions specified in Article III.

ARTICLE IX.

Consuls general, consuls, vice consuls general, vice consuls, and consular agents shall have the right to address the authorities whether, in the United States, of the Union, the States, or the municipalities, or in Sweden of the State, the Provinces, or the commune, throughout the whole extent of their consular district, in order to complain of any infraction of the treaties and conventions between the United States and Sweden, and for the purpose of protecting the rights and interests of their countrymen. If the complaint should not be satisfactorily redressed, the consular officers aforesaid, in the absence of a diplomatic agent of their country, may apply directly to the Government of the country where they exercise their functions.

ARTICLE X.

Consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, and consular agents of the respective countries may, as far as may be compatible with the laws of their own country, take at their offices, their private residences, at the residence of the parties concerned, or on board ship, the depositions of the captains and crews of the vessels of their own country and of passengers thereon, as well as the depositions of any citizen or subject of their own country; draw up, attest, certify, and authenticate all unilateral acts, deeds, and testamentary dispositions of their countrymen, as well as all articles of agreement or contracts to which one or more of their countrymen is or are party; draw up, attest, certify, and authenticate all deeds or written instruments which have for their object the conveyance or encumbrance of real or personal property situated in the territory of the country by which said consular officers are appointed, and all unilateral acts, deeds, testamentary dispositions, as well as articles of agreement or contracts relating to property situated or business to be transacted in the territory of the nation by which the said consular officers are appointed; even in cases where said unilateral acts, deeds, testamentary dispositions, articles of agreement, or contracts are executed solely by citizens or subjects of the country within which said consular officers exercise their functions.

All such instruments and documents thus executed and all copies and translations thereof, when duly authenticated by such consul general, consul, vice consul general, vice consul, deputy consul general, deputy consul, or consular agent under his official seal, shall be received as evidence in the United States and in Sweden as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn up by and executed before a notary or public officer duly authorized in the country by which said consular officer was appointed; provided, always, that they have been drawn and executed in conformity to the laws and regulations of the country where they are intended to take effect.

ARTICLE XI.

The respective consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, and consular agents shall have exclusive charge of the internal order of the merchant vessels of their nation, and shall alone take cognizance of any differences which may arise, either at sea or in port, between the captains, officers, and crews, without exception, particularly in reference to the adjustment of wages and the execution of contracts. The local authorities shall not interfere except when the disorder that has arisen is of such a nature as to disturb tranquillity and public order on shore or in the port, or when a person of the country or not belonging to the crew shall be concerned therein.

In all other cases the aforesaid authorities shall confine themselves to lending aid to the said consular officers, if they are requested by them to do so, in causing the arrest and imprisonment of any person whose name is inscribed on the crew list whenever, for any cause, the said officers shall think proper.

ARTICLE XII.

The respective consuls general, consuls, vice consuls general, vice consuls, deputy consuls general, deputy consuls, and consular agents may cause to be arrested the officers, sailors, and all other persons making part of the crews in any manner whatever of ships of war or merchant vessels of their nation, who may be guilty, or be accused, of having deserted said ships and vessels, for the purpose of sending them on board or back to their country. To this end they shall address the competent local authorities of the respective countries, in writing, and shall make to them a written request for the deserters, supporting it by the exhibition of the register of the vessel and list of the crew, or by other official documents, to show that the persons claimed belong to the said ship's company. Upon such request thus supported, the delivery to them of the deserters can not be refused, unless it should be duly proved that they were citizens of the country where their extradition is demanded at the time of their being inscribed on the crew list. All the necessary aid and protection shall be furnished for the pursuit, seizure, and arrest of the deserters, who shall even be put and kept in the prisons of the country, at the request and expense of the consular officers, until there may be an opportunity for sending them away. If, however, such an opportunity should not present itself within the space of two months, counting from the day of the arrest, the deserters shall be set at liberty, nor shall they be again arrested for the same cause.

If the deserter has committed any misdemeanor, and the court having the right to take cognizance of the offense shall claim and exercise it, the delivery of the deserter shall be deferred until the decision of the court has been pronounced and executed.

ARTICLE XIII.

All proceedings relative to the salvage of vessels of the United States wrecked upon the coasts of Sweden, and of Swedish vessels wrecked upon the coasts of the United States, shall be directed by the consuls general, consuls, vice consuls general, and vice consuls of the two countries, respectively, and until their arrival by the respective consular agents, wherever an agency exists. In the places and ports where an agency does not exist, the local authorities until the arrival of the consular officer in whose district the wreck may have occurred, and who shall be immediately informed of the occurrence, shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customhouse charges unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XIV.

In case of the death of any citizen of Sweden in the United States or of any citizen of the United States in the Kingdom of Sweden without having in the country of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the nation to which the deceased belongs of the circumstances, in order that the necessary information may be immediately forwarded to parties interested.

In the event of any citizens of either of the two contracting parties dying without will or testament in the territory of the other contracting party, the consul general, consul, vice consul general, or vice consul of the nation to which the deceased may belong, or, in his absence, the representative of such consul general, consul, vice consul general, or vice consul shall, so far as the laws of each country will permit and pending the appointment of an administrator and until letters of administration have been granted, take charge of the property left by the deceased for the benefit of his lawful heirs and creditors, and, moreover, have the right to be appointed as administrator of such estate.

It is understood that when under the provisions of this article any consul general, consul, vice consul general, or vice consul, or the representative of each or either, is acting as executor or administrator of the estate of one of his deceased nationals, said officer or his representative shall, in all matters connected with, relating to, or growing out of the settlement of such estates, be in such capacities as fully subject to the jurisdiction of the courts of the country wherein the estate is situated as if said officer or representative were a citizen of that country and possessed of no representative capacity whatsoever.

The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other by sale, donation, testament, or otherwise, and their representatives, being citizens of the other party, shall succeed to their personal goods, whether by testament or *ab intestato*, and they may in accordance with and acting under the provisions of the laws of the jurisdiction in which the property is found take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein such goods are shall be subject to pay in like cases.

As for the case of real estate, the citizens and subjects of the two contracting parties shall be treated on the footing of the most-favored nation.

ARTICLE XV.

The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be made in conformity with the respective constitutions of the two countries and exchanged at Washington as soon as possible within the period of one year. In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall remain in force one year longer, and so on, from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

In faith whereof the respective plenipotentiaries have signed this convention and have hereunto affixed their seals.

Done in duplicate at the city of Washington this first day of June, one thousand nine hundred and ten.

[SEAL.] P. C. KNOX.
[SEAL.] H. L. F. LAGERCRANTZ.

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 eighteenth day of March, one thousand nine hundred and eleven;

Now, therefore, be it known that I, William Howard Taft, 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 testimony whereof I have hereunto set my hand and caused the seal of the United States to be hereunto affixed.

Done at the city of Washington this twentieth day of March, in the year of our Lord one thousand nine hundred and eleven,
[SEAL.] and of the Independence of the United States of America the one hundred and thirty-fifth.

WM. H. TAFT.

By the President:
HUNTINGTON WILSON,
Acting Secretary of State.

SWITZERLAND.

INTERPRETATION OF ARTICLE XIII OF THE EXTRADITION TREATY OF MAY 14, 1900, BETWEEN THE UNITED STATES AND SWITZERLAND.

File No. 211.54.

The Swiss Chargé d'Affaires to the Secretary of State.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, October 5, 1911.

MR. SECRETARY OF STATE: In compliance with my Government's instructions and with reference to a conversation I had in June, 1910, with Assistant Secretary Chandler Hale, I have the honor to bring before your excellency the following facts relating to the interpretation of Article XIII of the extradition treaty, concluded May 14, 1900, between Switzerland and the United States.

It is the practice of the Department of Justice of the United States, when remitting to requisitioning government the statement of expenses incurred by the Government of the United States in extradition cases, to charge for certain services coming within the duties of United States marshals various items which in fact constitute "fees."

I shall confine myself to mentioning here the last three extradition cases that have been attended to by this legation, in which the statements of expenses were as follows:

(A) Extradition of Henri Kaegi: The Department of State delivered to the legation the warrant of surrender by note of January 21, 1908, and the statement of expenses amounting to $31.35 by note of October 27, 1908.

(B) Extradition of Franz Buchli: The Department of State transmitted to the legation the warrant of surrender with its note of March 21, 1908, and the statement of expenses amounting to $56.30 with its note of April 10, 1909.

(C) Extradition of Joseph Sattler (alias Théophile Bosshardt): The Department of State forwarded to the legation the warrant of surrender in its note of May 12, 1908, and the statement of expenses amounting to $33.97 in its note of January 19, 1910.

I beg leave to reproduce herein below in each case the items to which I desire to call your excellency's attention:

(A) Extradition of Henri Kaegi: (Extract from the "itemized statement" of Eugene Nolte, United States marshal for the western district of Texas.)

January 26, 1908:
Serving extradition warrant by delivering prisoner to J. D. Womack, representative of the Swiss Confederation $2.00
January 3, 1908:
Deputy F. H. Lancaster, serving warrant 2.00
Attending hearing before Commissioner Scott 2.00
Committing defendant ..... .50

(B) Extradition of Franz Buchli: (Extract from the "itemized statement" of Thomas J. Alcott, United States marshal for the district of New Jersey.)

February 12, 1908:
Fee for serving warrant $2.00
Fee for committing ..... .50
February 15, 1908:
Fee for attendance before commissioner 2.00
February 21, 1908:
Fee for attendance before commissioner 2.00

(C) Extradition of Joseph Sattler: (Extract from "itemized statement" of William Henkel, United States marshal for the southern district of New York.)

April 28, 1908:
Fee for serving warrant $2.00
Fee for attendance of deputy before commissioner 2.00
June 3, 1908:
Fee for discharging prisoner ..... .50

As there is no request for extradition made by the Government of the Swiss Confederation now pending before the Government of the United States, the Federal Council considers this to be the particularly proper time for putting the question presented in this communication on a general basis of interpretation of the Swiss-American extradition treaty.

Article XIII of the said diplomatic instrument contains, among others, the following provision:

of such officials of the Government upon which the demand is made as receive a fixed salary.

Now—and saving any new provision that might have escaped the legation's notice—an act of Congress, approved May 28, 1896, changed the compensation of United States marshals to a fixed salary ranging from $2,000 to $5,500, according to the Federal judicial districts.

From the Swiss viewpoint it therefore seems certain that the United States marshals belong to the class of salaried officials. As, on the other hand, the text of the above quoted Article XIII is clear and precise and leaves no room for doubt, I have the honor to bring to your excellency's notice the divergence in the interpretation put upon it by American officials who have occasion to apply it.

It is proper to remark here that the amount of fees heretofore charged by the United States marshals never was very important and that the legation always paid them in full; there is no intention on the part of my Government to have the money paid in the past refunded or give to this note the character of a complaint; but in view of our mutual good relations the Federal Council would be glad if the provisions of the treaties concluded between Switzerland and the United States could all, without any exception, be interpreted in every point in exactly the same way by the two Governments.

Actuated by motives of harmony and good understanding only, I have therefore the honor to beg that your excellency will kindly examine this question, and I feel even now certain that the examination may completely remove the divergence in the interpretation of Article XIII. I wish to add that your excellency would greatly oblige me by returning an answer as soon as possible.

Be pleased to accept, etc.,

HENRY MARTIN.

File No. 211.54/1.

The Secretary of State to the Swiss Chargé d'Affaires.

No. 89. DEPARTMENT OF STATE,
Washington, November 13, 1911.

SIR: Referring to your note of the 5th ultimo, in regard to the expenses incurred in connection with the extradition of certain Swiss citizens, in which note the position was taken that under the provisions of Article XIII of the treaty of extradition between the two countries no charge can properly be made for marshals' fees, I have now the honor to inclose for your information a copy of a letter on the subject from the Attorney General, to whom the matter was referred, as the act of June 28, 1902, transferred the settlement of accounts for extradition expenses to the Department of Justice.

It appears from the Attorney General's letter that he takes the same view of the matter as that expressed in your note, and that the marshals' fees in the cases referred to in the note were inadverently charged.

Accept, etc.,

P. C. KNOX.

[Inclosure.]

The Attorney General to the Secretary of State.

DEPARTMENT OF JUSTICE,
Washington, November 7, 1911.

SIR: I have the honor to acknowledge the receipt of your letter of the 30th ultimo,[1] in which you ask the advice of this department as to whether, under the treaty existing between the United States and the Swiss Confederation, United States marshals have the right to charge "fees" in extradition cases.

Article XIII of the treaty concluded May 14, 1900, between Switzerland and the United States (31 Stats., 1933) provides that the State making the demand shall not be charged for the services of such officials of the Government, upon which the demand is made, as receive a fixed salary.

By the act of May 28, 1896 (sec. 9, 29 Stats., 181), marshals in the various judicial districts were placed upon a salary basis instead of fees, and it seems that, under the law and the treaty, the Republic of Switzerland has inadvertently been charged with fees in the cases set out in the memorandum of the chargé d'affaires of that country in this city.

Respectfully,

(For the Attorney General)
WINFRED T. DENISON.

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[1] Not printed.

ADHESION OF THE IMPERIAL OTTOMAN GOVERNMENT TO THE RED CROSS CONVENTION OF 1906, AND USE OF THE RED CRESCENT AS THE EMBLEM OF HER SANITARY SERVICE.

File No. 514.2A2a/74.

The Swiss Chargé d'Affaires to the Secretary of State.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, July 29, 1910.

MR. SECRETARY OF STATE: By a note of September 3, 1907, the legation of Switzerland at Washington had, by order of its Government, the honor to announce to your excellency the adhesion of the Imperial Ottoman Government to the Convention for the Amelioration of the Condition of the Sick and Wounded of Armies in the Field, with the reservation that it would use in its army the Red Crescent as an emblem for the protection of its ambulances. It is understood—added the Imperial Ottoman Government—that it will scrupulously respect the inviolability of the Red Cross flag.

The Swiss Federal Council advanced the opinion that it was proper to accept the reservation, as the Second Peace Conference convened at The Hague had agreed that Turkey could use the Red Crescent, and Persia the Lion and Sun, as the distinctive signs of the sanitary service of their armies in maritime warfare.

Before declaring itself, the Imperial and Royal Government of Austria-Hungary expressed in a note dated February 22, 1908, a wish to receive information as to whether and how far the reservation formulated by the Sublime Porte affected articles 23 and 27 of the Geneva Convention of July 6, 1906. Article 23 provides that the emblem of the Red Cross on a white ground and the words "Red Cross" and "Geneva Cross" shall not be used in war or in peace except for the purpose for which they were created, viz, the protection or designation of sanitary units and establishments, the personnel and material protected by the convention. Article 27 binds the contracting States to prohibit at all times the use, by private persons or associations other than those entitled thereto under the convention, of the emblem of the Red Cross and of the words "Red Cross" and "Geneva Cross."

The Imperial Ottoman Government to which the Swiss Federal Council promptly referred the inquiry informed it by a note dated February 20, 1909, that the provisions of articles 23 and 27 of the Geneva Convention could only be enforced in the Ottoman Empire in matters concerning the Red Crescent.

Other doubts being raised by this reply, the Imperial and Royal Austro-Hungarian Government requested the Swiss Federal Council, under date of October 30, 1909, to elucidate the following points:

Does the fact that the Red Cross emblem is not protected in Turkey from misuse and counterfeiting imply that in time of war the Turkish commanders may ignore the emblem, if used by the enemy, so that it would be left to their discretion whether or not to respect the sanitary units and establishments of the enemy?

Is the reservation formulated by the Imperial Ottoman Government to be construed as meaning that the Red Crescent must enjoy in the contracting States (other than Turkey) the same protection that article 27 of the Geneva Convention guarantees to the Red Cross emblem and the words "Red Cross" and "Geneva Cross," so that a commercial use thereof by means of trade-marks should be prohibited?

The Imperial Ottoman Government answered these queries by a note dated June 18, 1910, from which it appears that, as regards the protection of the Red Cross, the Sublime Porte will strictly adhere to the principle of reciprocity. The commanders of the Ottoman Army will respect the Red Cross flag in the same measure as the commanders of the armies of the enemy will respect the Red Crescent. Steps will be taken in the Ottoman Empire toward preventing the use of the emblem and names of Red Cross and Geneva Cross for commercial purposes, provided that protection be accorded, on the same conditions, to the emblem and name of Red Crescent by the powers that have signed or adhered to the Geneva Convention.

By order of my Government, I have, etc.,

HENRI MARTIN.

File No. 514.2A2a/74.

The Secretary of State to the Swiss Minister.

No. 69.] DEPARTMENT OF STATE,
Washington, May 3, 1911.

SIR: Referring to your legation's note of July 29 last, transmitting copies of correspondence regarding the reservation of the Imperial Ottoman Government to articles 23 and 27 of the Geneva Convention of July 6, 1906, for the amelioration of the condition of the sick and wounded in the field, which reservation related to the use by the Ottoman Government of the Red Crescent in place of the Red Cross as a distinctive sign of the sanitary service of its army, I have the honor to say that upon receipt of your note copies of it and the inclosed correspondence were communicated to the War Department, and that acknowledgment of your legation's note was postponed awaiting a reply from that department. As, however, no reply has been received, it is assumed that the War Department understood the information contained in the note to have been communicated to this Government merely, as stated in the note, for its knowledge.

Accept, etc.,

P. C. KNOX.

File No. 514.2A2a/82.

The Swiss Minister to the Secretary of State.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, May 10, 1911.

MR. SECRETARY OF STATE: Referring to this legation's note of July 29, 1910, and its accompaniments, relative to the use of the Red Crescent by Turkey as the emblem and badge of the sanitary service

of its armies in derogation of article 18 of the Geneva Convention of July 6, 1906, I have the honor to inform you that the Imperial Russian Government has addressed to the Swiss Legation at St. Petersburg the following reply to the aforesaid communication:

In reply to the note dated July 9/22, 1910, regarding the inquiries made by Imperial and Royal Government of Austria-Hungary about the adhesion of Turkey to the Convention for the Amelioration of the Condition of the Sick and Wounded of Armies in the Field, concluded at Geneva June 23/July 6, 1906, I have the honor to inform you that the delegates of the Imperial Government to the second peace conference having assented to the use by Turkey of the Red Crescent as the badge of the sanitary service of its armies in maritime warfare, the Imperial Government sees no objection to the granting of the same power to the Ottoman Government in the case of war on land.

I hasten to add that in the opinion of the Imperial Government the following conditions should be placed upon the right granted to Turkey to use the Red Crescent:

1. Scrupulously to respect the emblem of the Red Cross in accordance with the stipulations of the Geneva Convention.
2. To use the emblem of the Red Crescent in time of peace as well as in war for the exclusive purpose of designating the personnel and material under the protection of the convention; and
3. To prohibit by law the use of the emblem of the Red Cross, as well as that of the Red Crescent, for commercial or industrial purposes.

The Imperial Government finally believes that it would be desirable to secure for the Red Crescent the same protection in the countries, parties to the Geneva Convention, as it extended to the Red Cross.

Be pleased to accept, etc.,

P. RITTER.

File No. 514.2A2a/82.

The Secretary of State to the Swiss Minister.

No. 71.] DEPARTMENT OF STATE,
Washington, May 18, 1911.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant in which you communicate to this department the reply made by the Russian Government to the note of the Swiss Legation at St. Petersburg in regard to the use of the Red Crescent by Turkey as the emblem and badge of the sanitary service of its armies.

Copies of your note have been transmitted to the Secretary of War and to the American National Red Cross.

Accept, etc.,

P. C. KNOX.

File No. 514.2A2a/86.

The Secretary of State to the Swedish Minister.

DEPARTMENT OF STATE,
Washington, August 2, 1911.

MY DEAR MR. MINISTER: In compliance with your verbal request for information as to this Government's views concerning the employment by the Ottoman Government of the emblem of the Red Crescent instead of the Red Cross, I take pleasure in communicat-

ing to you the fact that the competent authorities of this Government are disposed to accord recognition to the Red Crescent, on the condition of a similar mutual recognition of the Red Cross by the Ottoman authorities.

In regard to your request to be privately informed whether this Government intends to take any measures to prevent the marks or the name of the Red Crescent being used for commercial purposes, I regret that I can not yet give you any definite reply, as the question of recommending to Congress such legislation is still under consideration by this Department.

I am, etc.,

P. C. KNOX.

File No. 514.2A2a/90.

The Swiss Minister to the Secretary of State.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, September 11, 1911.

Mr. SECRETARY OF STATE: By a note of May 10, 1911, this legation had the honor to bring to your knowledge the contents of a note of the Imperial Government of Russia to the Legation of Switzerland at St. Petersburg relative to the conditions on which, in that Government's opinion, Turkey should be authorized to use the Red Crescent for the distinctive mark of the sanitary service of its armies.

By order of my Government, I have the honor to transmit to your excellency a copy of the reply returned by the Sublime Porte under date of July 5, 1911.

It appears from that answer that the Ottoman Government pledges itself scrupulously to respect the Red Cross emblem, in conformity with the provisions of the Geneva Convention, and to use the emblem, in time of peace as well as in time of war, for the sole designation of the personnel and material placed under the protection of the convention (points 1 and 2 in the Russian note). As to point 3 which deals with the prohibition of the use of Red Cross and Red Crescent emblems for commercial or industrial purposes, the Ottoman Government declares its readiness to enforce throughout its territory article 27 of the Geneva Convention, on condition that the other contracting States will guarantee equal treatment for the Red Crescent name and emblem.

The Federal Council therefore asks the Governments that have signed or ratified the Geneva Convention of July 6, 1906, to notify it whether they are in position to extend, within their territories, to the Red Crescent name and emblem the same protection as is enjoyed, under article 27 of the convention, by the Red Cross name and emblem.

Another question upon which the Federal Council asks the Governments' parties to the convention of July 6, 1906, to pass, is the following:

The adoption of the Red Crescent as a distinctive mark for Turkish ambulances (field hospitals) implying a modification of the con-

vention, is it not proper to have the said modification accepted by all the States concerned in the shape of an international instrument signed by their plenipotentiaries?

The Federal Council adds that it would be all the more desirable to decide this question, as other States—Persia, for instance—might hereafter ask to be permitted to use other distinctive marks (the lion, the sun, etc.).

Be pleased to accept, etc.,

HENRI MARTIN.

[Inclosure.]

The Turkish Minister for Foreign Affairs to the President of Switzerland.

[Translation.]

SUBLIME PORTE,
Ministry of Foreign Affairs, July 5, 1911.

Mr. PRESIDENT: I had the honor to receive the note which your excellency saw fit to address to me on April 25, 1911, in relation to the Geneva Convention of July 6, 1906.

The developments set forth on this subject by the Imperial Russian Government to the Legation of the Swiss Confederation at St. Petersburg have been examined by the Imperial Ottoman Government.

As regards the first condition, the Imperial Government has already declared, in the dispatch of my department addressed to the President of the Swiss Confederation on August 26, 1907, No. 69916-38, that it accedes to the Geneva Convention of July 6, 1906, with the reservation that in its armies it will use the emblem of the Red Crescent to protect its ambulances; it also added that it would scrupulously respect the inviolability of the Red Cross flag.

It goes without saying that by this declaration it consented to conform to all the clauses of said convention which prescribe scrupulous respect for the Red Cross, though adopting the Red Crescent as far as it was concerned.

As regards the second point I can do no better than to repeat the terms of article 23 of the aforesaid convention in order to better determine the mode of employment of the Red Crescent.

Thus, the emblem of the Red Crescent on a white background, as well as the words Red Crescent, may only be used, in time of peace or war, to protect or designate the sanitary formations and establishments and the personnel and matériel protected by this convention.

As to the third point I am happy to note the good disposition of the Imperial Russian Government, tending to insure to the Red Crescent, in the countries participating in the Geneva Convention, the protection accorded the Red Cross.

My Government is quite disposed to apply in its territory the provisions of article 27 in so far as reciprocal treatment is insured the emblem and denomination of the Red Crescent.

In your note No. 189 of July 14, 1910, your excellency informed me that you had notified the Nations signing or indorsing the Geneva Convention of the notes exchanged between the Imperial and Royal Austro-Hungarian Legation, the political department of the Swiss Confederation ,and the Imperial Ottoman Government on the subject of the protection of the Red Cross and the Red Crescent.

I should be much obliged to your excellency if you would advise me as soon as the other Nations aforementioned have answered, so that the Sublime Porte may be in a position to fulfill its engagements as stipulated in article 27 mentioned above.

Please accept, Mr. President, the assurance of my very high regard.

RIFAAT.

TURKEY.

EXPULSION OF C. TELFORD ERICKSON, AN AMERICAN CITIZEN, FROM ELBASSAN, ALBANIA, BY TURKISH AUTHORITIES.

File No. 367.112 Er 4/1.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 259.] AMERICAN EMBASSY,
Constantinople, October 17, 1910.

SIR: I have the honor to transmit herewith a copy and translation of a dispatch, dated the 17th ultimo,[1] from the Austrian consul at Monastir, in the Province of Macedonia, addressed to the Austrian Embassy at Constantinople, and copies of two letters,[1] with inclosures, dated the 26th ultimo and the 5th instant, respectively, received at this embassy from Mr. W. W. Peet, treasurer of American Missions in Turkey, all of which relate to the expulsion from the town of Elbassan, Albania, of Rev. C. Telford Erickson, an American citizen, who was forced by the Turkish authorities to suddenly leave his home at that place and proceed with his family, under reported distressing circumstances, to the town of Monastir, without written order, or, apparently, any adequate reason.

I beg to report that the facts as reported by the Austrian consul at Monastir, who is in charge of American interests, and which are supported by the statements of Mr. Erickson in his letters to Mr. Peet (inclosures 2 and 3)[1] give evidence that the Turkish authorities at Elbassan have committed a grave injustice in peremptorily expelling a peaceful American citizen from his home without any apparent grounds upon which to base such action.

Mr. Erickson, who is an American missionary, is reported to me to be a quiet and unoffending man of refinement and education. He is undoubtedly endeavoring to acquire property at Elbassan with the ultimate intention of establishing there a school and hospital under the auspices of the American Board of Commissioners for Foreign Missions in Boston, Mass. After careful inquiry, I can ascertain the existence of no possible reason for his being subjected to such treatment as reported except that the Turkish authorities, looking upon this man in the light of a hindrance to, and as a witness of, the carrying out of certain harsh punitive measures they have lately been putting into execution against the Albanians, among whom, I am informed, he is much respected and liked, have adopted the above means of getting rid of him. It may also be suggested that the Ottoman Government might strongly object to the establishment of an American school at Elbassan, where the Albanian instead of Turkish language will in all probability be employed on account of its greater simplicity. The Ottoman Government is apparently deter-

[1] Not printed.

mined that Turkish shall be the sole language of the schools in Albania. I have been informed by Mr. Peet, however, that the above missionary has not been engaged in teaching, pending the acquirement of school property.

I beg also to call attention to the fact that Mr. Erickson was subject to very similar treatment by the Ottoman authorities at Tirana, in the year 1909, and that the case was taken up by this embassy with the Sublime Porte with the result that Mr. Erickson did not return to that place but took up his residence at Elbassan where he has since been endeavoring to purchase a piece of land, presumably for school and hospital purposes, and upon which he has already paid a sum of money, but to which he had not secured the title at the time of his expulsion from Elbassan. I understand that the stated reason upon which the Ottoman authorities based their treatment of Mr. Erickson at that time was that he was attempting to propagate Albanian literature written in the Latin characters.

I beg to report to the Department that after having exhausted every means of obtaining information directly from the ministry of the interior and the ministry of war as to the state of affairs at Elbassan and the cause of the expulsion of the American missionary, I addressed a note verbale to the Sublime Porte, a copy and translation of which I have the honor to transmit herewith, in which I stated the facts of the case, requested that immediate orders be given to enable the return of Erickson and his family to Elbassan, at the same time reserving all rights, in case further demands are determined upon, and requested a full explanation from the authorities at Elbassan for their unwarranted action. No reply has been received to this communication. I subsequently spoke of the affair to both the grand vizier and the foreign minister; each expressed entire ignorance in the matter. The foreign minister remarked there had been much disturbance in that region and seemed to attach little importance to the occurrence, assuring me only that he would obtain information in regard to the same.

In requesting instructions from the Department in the above matter, I most strongly advise that the Ottoman Government be held responsible for such damages as may be found to have been caused by any unwarranted treatment of this American citizen by the authorities at Elbassan, of whose actions in this matter a full explanation should be forthcoming, and that the immediate removal of the present restriction against his return to Elbassan should be insisted upon.

Trusting the action already taken in this matter will meet with the Department's approval.

I have, etc.,

HOFFMAN PHILIP.

[Inclosure.]

The American Chargé d'Affaires to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Constantinople, September 28, 1910.

The American Embassy has the honor to bring to the serious attention of the Sublime Porte the following facts:

Mr. Telford Erickson, an American citizen, who has peacefully resided at Elbassan for the past year, was suddenly and without apparent cause ordered

by the authorities at that place to leave his home at Elbassan with his family and proceed at once to Monastir. He requested a written order, but this was denied him. He telegraphed to Constantinople for advice, but before time was allowed for a reply, he was on the 7th instant forced to leave Elbassan, with his sick wife and four young children, and after six days' fatiguing travel, part of which was on horseback, arrived at Monastir, where he now is.

This embassy having lately received official information as to the exactitude of the above facts, and reserving all rights, begs to request that the imperial ministry for foreign affairs will cause immediate orders to be given to the authorities at Monastir and Elbassan that the return of this American citizen to the latter place shall not be prevented and, at the same time, to cause the said authorities to submit a full explanation of their unwarranted action in forcing this man from his home together with his invalid wife and four young children.

File No. 367.112 Er 4/1.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 1, 1910.

The action of the Ottoman Government is regarded by the Department as unwarrantable and in direct violation of our treaty rights. The embassy is instructed to press for immediate removal of present restraints against the return of Erickson to Elbassan, and to reserve at the same time all rights in regard to damages.

ADEE.

File No. 367.112 Er 4/3.

The Secretary of State to the American Minister in temporary charge of the Embassy at Constantinople.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 28, 1910.

The embassy is instructed to report what action has been taken on Department's telegram of November 1, 1910, also to investigate the reported arrest of Erickson at Monastir on the 20th ultimo and to take appropriate action.

KNOX.

File No. 367.112 Er 4/4.

The American Minister in temporary charge of the Embassy at Constantinople to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Constantinople, November 29, 1910.

The contents of Department's telegram of November 1, 1910, was brought to the attention of the Ottoman Government. Strong protest was made in regard to the arrest of Erickson at Monastir, and the Government promised immediate investigation.

CARTER.

File No. 367.112 Er 4/4.

The Secretary of State to the American Minister in temporary charge of the Embassy at Constantinople.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 30, 1910.

Instructs to insist upon immediate reply to the representations made by the embassy in regard to the deportation of Erickson from Elbassan and to report the result to the Department by cable.

KNOX.

File No. 367.112 Er 4/7.

The American Minister in temporary charge of the Embassy at Constantinople to the Secretary of State.

No. 284.] AMERICAN EMBASSY,
Constantinople, November 30, 1910.

SIR: With reference to the case of Mr. Telford Erickson, I have the honor to state for you further information the steps taken in the matter since Mr. Philip's dispatch of October 17.

On the 25th of October Mr. Peet, of the American Bible House, received a telegram from Mr. Erickson stating that the latter had been arrested at Monastir, and, after two hours' detention, had been released through the intervention of the Austrian vice consul, and that the court-martial had ordered him to leave Monastir. I at once communicated with the Sublime Porte, protesting against this action on the part of the Turkish authorities, and at the same time demanded to be informed without delay upon what grounds these measures had been taken, and that meanwhile orders should be sent to stay the proceedings at Monastir. A copy of this note is herewith inclosed.[1]

Subsequently, having received a dispatch from the Austrian vice consul at Monastir giving the details of the affair, I went in person to see the minister for foreign affairs. It being Sunday, he was not to be found; and, in consequence, I had an interview with the undersecretary for foreign affairs, Couyoumdjian Effendi, to whom I vigorously protested, insisting that prompt and stringent orders should be given to the governor general at once to respect the rights of American citizens in general, and in the present case to give complete satisfaction to the consul. I asked that it be pointed out to the governor general that the existence of martial law in no way modified, as far as American citizens are concerned, the rights enjoyed by the latter under the treaty of 1830. He promised to take immediate steps to have the matter promptly investigated, and since that time Mr. Erickson has not been further molested. A copy of my memorandum left with the Porte on this occasion is herewith inclosed.[1]

On November 2 the Department's telegram of the 1st of November was received. As the principal points were already under considera-

[1] Not printed.

tion by the Porte, having been presented to the minister for foreign affairs by Mr. Philip, and as the special embassy was in the midst of their visit to Constantinople, it was thought better to postpone presenting a further note, which, however, I had already prepared, until a subsequent and more favorable day. Meanwhile I was informed by Mr. Peet that Mr. Erickson would be coming to Constantinople shortly to attend a conference of missionaries, and it therefore seemed inopportune to insist for the moment upon his immediate return to Elbassan. After consultation with Mr. Peet and Dr. Patton, the secretary of the board of missions, on the 27th, I decided to hand in the note I had prepared, based on the Department's instruction of the 1st instant, above referred to. A copy of this note is herewith inclosed.

Meanwhile martial law has been withdrawn from the Province of Monastir, and Mr. Erickson, who is now in Constantinople, expects to return to Elbassan next week after his conference here is finished. In view of his departure and of the Department's telegram of the 28th instant, I am sending to the Porte the inclosed note, dated the 30th instant, in which I press again for an immediate answer to our representation in the hope of eliciting some definite statement from the Government, whose frequent promises have not been fulfilled, and am arranging to see the minister for foreign affairs on the subject at the earliest possible moment.

I have, etc.,

JOHN RIDGELY CARTER.

[Inclosure 1.]

The American Embassy to the Minister for Foreign Affairs.

[Note verbale.]

No. 133.] AMERICAN EMBASSY,
Constantinople, November 28, 1910.

The embassy of the United States has the honor again to draw the attention of the Sublime Porte to its note verbale of the 28th of September last, relating to the case of Mr. Telford Erickson, to which no reply has been received.

This embassy has received instructions from the Government of the United States to point out to the Ottoman Government that the attitude of the local authorities in this case is considered as arbitrary, violating directly existing rights, and, in consequence, while reserving to the Government of the United States every right in relation to the question of damages, to urgently insist that the present restrictions against the return of Mr. Erickson to Elbassan should be immediately withdrawn.

[Inclosure 2.]

The American Minister in temporary charge of the American Embassy at Constantinople to the Minister for Foreign Affairs.

No. 136.] AMERICAN EMBASSY,
Constantinople, November 30, 1910.

MR. MINISTER: I have the honor to draw your excellency's personal attention to the notes verbales of this embassy of the 28th of September and the 26th of October last, and to the memorandum of the 30th of that month, as well as to the note verbale of the 28th instant, all relating to the case of my fellow-countryman, Mr. Telford Erickson, who, having been expelled from Elbassan in the most brutal and unwarranted manner, was taken to Monastir where

subsequently he was arrested with violence, and after two hours' imprisonment was liberated upon the intervention of the Austrian vice consul. These repeated efforts on the part of this embassy have met with absolutely no response from the Sublime Porte; and I am now in receipt of telegraphic instructions from my Government requesting me to urge that a reply to our representations should be given without delay.

I should therefore be much obliged if your excellency would be so good as to cause me to be furnished at the earliest possible moment with such a reply as might enable me to telegraph to my Government.

I avail, etc.,

JOHN RIDGELY CARTER.

File No. 367.112 Er 4/5.

The American Minister in temporary charge of the American Embassy at Constantinople to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Constantinople, December 4, 1910.

According to a note received yesterday from the Porte the return of Erickson to Elbassan is impossible on account of abnormal conditions there. As their reasons seem trivial and are not in accordance with our information concerning the conditions there I have not accepted them and have insisted upon Erickson's return. The minister for foreign affairs stated to-day that if he returns he will do so at his own risk. Do you authorize his departure?

CARTER.

File No. 367.112 Er 4/8.

No. 289.] AMERICAN EMBASSY,
Constantinople, December 4, 1910.

SIR: I have the honor to state that after two visits to the Porte, where I saw the under secretary for foreign affairs, Rifaat Pasha not being able to receive me, last night I received a note from the Porte, a copy of which is herewith inclosed, and this morning had an interview with the minister for foreign affairs. I told him that I had received the note from the Porte last night and that I regretted to say that it was not satisfactory; that besides failing to explain the delay or to make any sort of apology or excuse for the expulsion of Mr. Erickson from Elbassan and his subsequent arrest at Monastir under such extraordinary circumstances, the reasons advanced against his return were too trivial to be considered seriously, and that therefore I must insist upon his immediate return to Elbassan. He replied that in view of the continued unsettled and abnormal condition of the country it would not be possible for him to go back there at the present time without running a very serious risk, for which they could not hold themselves responsible. I remarked that our private information led us to believe that the present situation there was quite peaceful and that I could not see how there would be danger for him in returning; that the explanation he made might have been good two months ago, but now that martial law had been abandoned in that Province it was natural to suppose that the authorities had ceased to think it necessary. I went on to say that my Government could not comprehend why the Porte

had made no formal reply to my repeated representations; that it seemed to me the Porte was disposed to treat the whole matter as one of little consequence, while to my Government the question of the personal liberty of its citizens and their rights under the treaties in force was one of the greatest importance. He replied that that was far from being the case; that he had given us repeated verbal assurances that the matter was receiving attention, and then exclaimed somewhat irrelevantly: "Who ordered his expulsion?" to which I replied that his excellency should know better than I, but that as it was conducted by a military force, I supposed it to be by the commanding officer of the district. He said that had not been proved, as we only had Mr. Erickson's word for it; to which I replied that the fact of his expulsion was known to everybody, and that even if we had only his wife's word for it and their physical sufferings resulting therefrom as evidence, it had never been questioned by the Turkish authorities, though they had had two months to get up their case. He then repeated that they would investigate the circumstances of his arrest at Monastir but his return to Elbassan was impossible in the present state of affairs as reported by the local authorities, whose views he was bound to accept, and that he did not think our Government ought to oppose that decision; he was sure that if this was properly explained they would not still insist. I replied that I should certainly report what he said, but that meanwhile my instructions were to insist upon Mr. Erickson's return. I then handed him the note I had prepared in answer to that of the Porte, a copy of which is herewith inclosed. After reading it he said if Mr. Erickson went back it would be at his own risk; that he might be killed, and the Government could not take responsibility; to which I remarked that if anything like that happened, it could only be through the military authorities, as at Elbassan, where he was universally respected, no one else would have any reason to molest him, and that when he did go back we should expect him to be protected by the Vali or the military authorities. And there the matter rested.

Upon returning to the embassy I wrote this down, and subsequently sent you my telegram of this day above mentioned. Mr. Erickson is lunching with me to-morrow, and when I saw him yesterday he expected to leave for Elbassan on Tuesday, and I was anxious to have the Department's advice as to whether I should persuade him not to go in view of the representations of Rifaat Pasha. Mr. Erickson himself thinks there will be no danger. For this reason I am of the opinion that the Government does not wish to lose face with the military authorities by permitting him to return, and they are using the argument of the unrest there hoping that we will be intimidated; certainly Hakki Pasha, in his statement in the Parliament yesterday, declared to the whole world that order had been absolutely established in that part of the Empire.

I have, etc., JOHN RIDGELY CARTER.

[Inclosure 1.]

No. 4929/56.

The Ministry for Foreign Affairs to the American Embassy.

[Translation.]

SUBLIME PORTE, MINISTRY FOR FOREIGN AFFAIRS,
Constantinople, December 3, 1910.

The imperial ministry has had the honor to receive the note verbale of September 28 last, No. 133, in which the embassy of the United States of America insists again upon the return of Mr. Erickson to Elbassan.

Referring to the communications made verbally upon this subject, the imperial ministry begs the American Embassy to kindly take into consideration that if the return of Mr. Erickson is not possible at this moment it is because of an abnormal and exceptional situation resulting from events that are independent of the will of the Imperial Government.

In making therefore all reserves with regard to the possibility of a question of damages, the imperial ministry relies upon the spirit of equity of the embassy of the Republic to point out to its Government the extraordinary circumstances which still oppose Mr. Erickson's stay at Elbassan, and that there is no question, therefore, of a violation made deliberately against the rights of this American citizen.

[Inclosure 2.]

The American Embassy to the Minister for Foreign Affairs.

No. 139.] AMERICAN EMBASSY,
Constantinople, December 4, 1910.

The American Embassy has the honor to acknowledge the receipt of the note verbale of the Sublime Porte No. 4929/56 of the 3d instant, relating to the case of Mr. Telford Erickson.

This embassy notes with surprise that after a delay of more than two months there should be no excuse made nor any reason given for the unjustifiable expulsion of Mr. Erickson from Elbassan nor yet any reference to his subsequent unwarranted arrest and imprisonment at Monastir.

Does the note of the Sublime Porte mean to infer that order is not established at Elbassan? In that case it should have been explained why the martial court has been withdrawn.

This embassy would have been glad to know specifically what the nature of the extraordinary reasons may be which prevent Mr. Erickson's sojourn there, the suggestion made in the note verbale being too vague to be taken into serious consideration.

This embassy can not admit the theory put forward that a deliberate act committed by one of the responsible officers of the Imperial Government is not the act of the Government itself.

Therefore under these circumstances this embassy must insist, while reserving all questions of damages, that no impediment be interposed upon Mr. Erickson's *immediate* return to Elbassan.

File No. 367.112 Er 4/5.

The Acting Secretary of State to the American Minister in temporary charge of the American Embassy at Constantinople.

DEPARTMENT OF STATE,
Washington, December 5, 1910.

Should Erickson decide to return to Elbassan inform the Ottoman Government of his itinerary and add that this Government will hold the Ottoman Government strictly accountable for his safety and that of his family and property.

ADEE.

File No. 367.112 Er 4/6a.

The Secretary of State to the American Minister in temporary charge of the American Embassy at Constantinople.

No. 175.] DEPARTMENT OF STATE,
Washington, December 8, 1910.

SIR: Referring to the Department's telegram of December 6,[1] you are informed that the Ottoman ambassador acting under instructions from his Government, called at the Department on that day and stated that in the opinion of his Government the disturbed conditions in Albania, which have necessitated a recent dispatch of Ottoman troops into that district, rendered it unwise for Mr. Erickson to return to or reside in Elbassan at the present time.

The ambassador added that in bringing this to the notice of the Department he was instructed to state that the Ottoman Government has no objection to Mr. Erickson personally, and that the deferring of his return to Elbassan is desired solely on account of the disturbed conditions existing at that place.

The ambassador further stated that as soon as normal conditions should be reestablished the Ottoman Government would willingly assent to and facilitate the return of Mr. Erickson to Elbassan.

I am, etc.,

P. C. KNOX.

File No. 367.112 Er 4/6.

The American Minister in temporary charge of the embassy at Constantinople to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Constantinople, December 8, 1910.

For unavoidable reasons Erickson will not return to Elbassan for about a month, but will go to Monastir to rejoin his family. The foreign office has been so informed; also that the Ottoman Government would be held strictly accountable for the safety of Erickson, his family and his property. The statements of the Turkish ambassador at Washington concerning the dispatch of troops to that part of Albania do not agree with the information made public by the grand vizier. Elbassan is now and always has been considered as outside the zone of insurrection.

CARTER.

File No. 367.112 Er 4/8.

The Secretary of State to the American Minister in temporary charge of the American Embassy at Constantinople.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 3, 1911.

In order to avoid futile argument which, if the Ottoman Government persists in its absolutely untenable contentions, must become acrimonious, the embassy is instructed to endeavor to settle the

[1] Not printed.

Erickson case by obtaining from the Turkish Government a note expressing regret, whereupon both Governments may consider the incident closed.

KNOX.

File No. 367.112 Er 4/11.

The American Minister in temporary charge of the Embassy at Constantinople to the Secretary of State.

[Extract.]

No. 310.] AMERICAN EMBASSY, *Constantinople, January 31, 1911.*

SIR: With reference to your telegram of January 3, relating to the case of Mr. Telford Erickson, I have the honor to inform you that I immediately sought an interview with Rifaat Pasha and was received at his konak on the 10th instant, and had a private conversation with him on the subject of your telegram.

I went over the whole case again with him and pointed out the unsatisfactory explanations thus far given of the acts complained of. He remarked that we must be aware of the unsettled state of affairs in that part of the country at the time, and that things happened which under ordinary circumstances would be otherwise, but that he was most anxious to close the matter and felt sure that he could write a note such as would satisfy our Government as to the spirit with which the Ottoman authorities are animated.

After waiting two weeks, in which time Rifaat, I may explain, was most of the time confined to his house and part of the time to his bed with illness, I finally received on the 21st of January a note which, while expressing regret for past circumstances and promise of future good behavior, proceeded to state, as a reason why no explanatiton had been given, that their reports from their own officials did not coincide with those of ours.

I again saw the minister for foreign affairs and confidentially pointed out to him that I was sure that my Government would be unable to accept such a note as closing the affair. He said that if I would give him the note and treated it as non avenue he would prepare another one which could be substituted therefor and which he hoped would meet with the views of my Government. This was returned to me yesterday, and I herewith beg to inclose a copy thereof, and I should be glad to know whether it meets with the Department's approbation.

I have, etc.,

J. R. CARTER.

[Inclosure.]

The Minister for Foreign Affairs to the American Minister in temporary charge of the Embassy at Constantinople.

[Translation.]

SUBLIME PORTE, MINISTRY FOR FOREIGN AFFAIRS, *Constantinople, January 21, 1911.*

MR. MINISTER: I have had the honor of receiving the note verbale which you were good enough to send me, No. 142, of the 7th of December last,[1] informing

[1] Referred to in the telegram of December 8.

me that Mr. Erickson had temporarily abandoned the idea of going back to Elbassan and was leaving Constantinople to rejoin his family.

It gives me great pleasure to assure you on this occasion that Mr. Erickson will enjoy at Monastir all the guarantees of security which the Imperial Government is always happy to secure to strangers within its territory.

I beg to add that the Sublime Porte regrets exceedingly that the unusual circumstances beyond its control should have necessitated the temporary measures taken in Mr. Erickson's regard, measures which find their apology in the unusual circumstances themselves.

Kindly accept, etc.,

RIFAAT.

File No. 367.112 Er 4/11.

The Secretary of State to the American Minister in temporary charge of the Embassy at Constantinople.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 28, 1911.

In view of the note from the Sublime Porte, dated January 21, 1911, transmitted in your dispatch No. 310, of January 31, 1911, expressing regret and apology, inform the foreign office that this Government is disposed to regard the Erickson case as closed.

KNOX.

VENEZUELA.

File No. 831.032/1.

MESSAGE OF THE CONSTITUTIONAL PRESIDENT TO THE CONGRESS MAY 10, 1911.

[Extracts.]

In spite of our cordial relations, which are daily growing closer with the United States of North America, it was not possible to accede to the suggestion made by their Government to establish a consular agent at Guanoco. Our laws are definite on this and do not permit such officers in ports where there is no customhouse. This was explained to the representative of that friendly nation, who did not hesitate to recognize this obvious reason.

On the inauguration of my administration in 1908, I secured the arrangement of the diplomatic questions which my predecessor had embittered and made difficult; and after prolonged and laborious conferences between our chancellery and the special representative of the United States, an agreement was reached honorable to both nations. in harmony with the provisions of international law. All the claims were terminated by negotiation except that of the Orinoco Steamship Co. which was submitted to The Hague Tribunal, which declared void the sentence of Superarbiter Barge and condemned Venezuela to pay $46,867.42, a sum already paid by my Government in spite of our not finding the judgment justly made.

AWARD OF THE TRIBUNAL OF ARBITRATION IN THE CASE OF THE ORINOCO STEAMSHIP COMPANY vs. VENEZUELA, UNDER THE AGREEMENT OF FEBRUARY 13, 1909, BETWEEN THE UNITED STATES AND VENEZUELA.[1]

File No. 431.11 Or 4/159.

The Secretary of the American Agency to the Secretary of State.

THE HAGUE, *October 26, 1910.*

SIR: I have the honor to inclose herewith 10 copies of the award of the Special Tribunal of the Permanent Court of Arbitration in the Orinoco Steamship Co. case. The official French text is accompanied by an official English translation.

I have, etc.,

W. CLAYTON CARPENTER.

[Inclosure.]

AWARD OF THE TRIBUNAL OF ARBITRATION, CONSTITUTED UNDER AN AGREEMENT SIGNED AT CARACAS FEBRUARY 13, 1909, BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF VENEZUELA.

By an agreement, signed at Caracas the 13th of February, 1909, the United States of America and of Venezuela have agreed to submit to a tribunal of arbitration, composed of three arbitrators, chosen from the Permanent Court

[1] See Foreign Relations, 1909, p. 617.

of Arbitration, a claim of the United States of America against the United States of Venezuela;

This agreement states:

The arbitral tribunal shall first decide whether the decision of Umpire Barge, in this case, in view of all the circumstances and under the principles of international law, is not void, and whether it must be considered to be so conclusive as to preclude a re-examination of the case on its merits. If the arbitral tribunal decides that said decision must be considered final, the case will be considered by the United States of America as closed; but, on the other hand, if the arbitral tribunal decides that said decision of Umpire Barge should not be considered as final, the said tribunal shall then hear, examine, and determine the case and render its decisions on its merits.

In virtue of said agreement, the two Governments, respectively, have named as arbitrators the following members of the Permanent Court of Arbitration:

His Excellency Gonzalo de Quesada, envoy extraordinary and minister plenipotentiary of Cuba at Berlin, etc.;

His Excellency A. Beernaert, minister of state, member of the Chamber of Representatives of Belgium, etc.;

And the arbitrators so designated, in virtue of said agreement, have named as umpire:

Mr. H. Lammasch, professor in the University of Vienna, member of the Upper House of the Austrian Parliament, etc.;

The cases, countercases, and conclusions have been duly submitted to the arbitrators and communicated to the parties;

The parties have both pleaded and replied, both having pleaded the merits of the case, as well as the previous question, and the discussion was declared closed on October 19, 1910;

Upon which the tribunal, after mature deliberation, pronounces as follows:

Whereas by the terms of an agreement, dated February 17, 1903, a mixed commission was charged with the decision of all claims owned (poseidas) by citizens of the United States of America against the Republic of Venezuela which shall not have been settled by a diplomatic agreement or by arbitration between the two Governments and which shall have been presented by the United States of America; an umpire, to be named by Her Majesty the Queen of the Netherlands, was eventually to give his final and conclusive decision (definitiva y concluyente) on any question upon which the commissioners might not have been able to agree;

Whereas the umpire thus appointed, Mr. Barge, has pronounced on the said claims on the 22d of February, 1904;

Whereas it is assuredly in the interest of peace and the development of the institution of international arbitration, so essential to the well-being of nations, that on principle such a decision be accepted, respected and carried out by the parties without any reservation, as it is laid down in article 81 of the Convention for the Pacific Settlement of International Disputes of October 18, 1907; and besides no jurisdiction whatever has been instituted for reconsidering similar decisions;

But whereas in the present case, it having been argued that the decision is void, the parties have entered into a new agreement, under date of the 13th of February, 1909, according to which, without considering the conclusive character of the first decision, this tribunal is called upon to decide whether the decision of Umpire Barge, in virtue of the circumstances and in accordance with the principles of international law, be not void, and whether it must be considered so conclusive as to preclude a reexamination of the case on its merits;

Whereas by the agreement of February 13, 1909, both parties have at least implicitly admitted, as vices involving the nullity of an arbitral decision, excessive exercise of jurisdiction and essental error n the judgment (exceso de poder y error esencial en fallo);

Whereas the plaintiff party alleges excessive exercise of jurisdiction and numerous errors in law and fact equivalent to essential error;

Whereas, following the principles of equity in accordance with law, when an arbitral award embraces several independent claims, and consequently several decisions, the nullity of one is without influence on any of the others, more especially when, as in the present case, the integrity and the good faith of the arbitrator are not questioned; this being ground for pronouncing separately on each of the points at issue;

I. AS REGARDS THE $1,209,701.04.

Whereas this tribunal is in the first place called upon to decide whether the award of the umpire is void and whether it must be considered conclusive; and whereas this tribunal would have to decide on the merits of the case only if the umpire's award be declared void;

Whereas it is alleged that the umpire deviated from the terms of the agreement by giving an inexact account of the Grell contract and the claim based on it, and in consequence thereof fell into an essential error; but since the award reproduces said contract textually and in its entire tenor;

Whereas it is scarcely admissible that the umpire should have misunderstood the text and should have exceeded his authority by pronouncing on a claim which had not been submitted to him, by failing to appreciate the connection between the concession in question and exterior navigation, the umpire having decided in terminis that "the permission to navigate these channels was only annexed to the permission to call at Trinidad";

Whereas the appreciation of the facts of the case and the interpretation of the documents were within the competence of the umpire, and as his decisions, when based on such interpretation, are not subject to revision by this tribunal, whose duty it is, not to say if the case has been well or ill judged, but whether the award must be annulled; that if an arbitral decision could be disputed on the ground of erroneous appreciation, appeal, and revision, which the conventions of The Hague of 1899 and 1907 made it their object to avert, would be the general rule;

Whereas the point of view from which the umpire considered the claim of $513,000 (afterwards reduced in the conclusions of the United States of America to $335,000, and being part of the said sum of $1,209,701.04), is the consequence of his interpretation of the contract of May 10, 1900, and of the relation between this contract and the decree of the same date;

Whereas the circumstance that the umpire, not content to have based his award on his interpretation of the contracts, which of itself should be deemed sufficient, has invoked other subsidiary reasons, of a rather more technical character, can not vitiate his decision;

II. AS REGARDS THE $19,200 (100,000 BOLIVARES).

Whereas the agreement of February 17, 1903, did not invest the arbitrators with discretionary powers, but obliged them to give their decision on a basis of absolute equity without regard to objections of a technical nature, or to the provisions of local legislation (con arreglo absoluto á la equidad, sin reparar en objeciones técnicas, ni en las disposiciones de la legislación local);

Whereas excessive exercise of power may consist not only in deciding a question not submitted to the arbitrators, but also in misinterpreting the express provisions of the agreement in respect of the way in which they are to reach their decisions, notably with regard to the legislation or the principles of law to be applied;

Whereas the only motives for the rejection of the claim for 19,200 dollars are: 1st, the absence of all appeal to the Venezuelan courts of justice, and, 2d, the omission of any previous notification of cession to the debtor, it being evident that "the circumstance that the question might be asked if on the day this claim was filed this indebtedness was proved compellable," could not serve as a justification of rejection;

Whereas it follows from the agreements of 1903 and 1909—on which the present arbitration is based—that the United States of Venezuela had by convention renounced invoking the provisions of article 14 of the Grell contract and of article 4 of the contract of May 10, 1900, and as at the date of said agreements it was, in fact, certain that no lawsuit between the parties had been brought before the Venezuelan courts; and as the maintenance of Venezuelan jurisdiction with regard to these claims would have been incompatible and irreconcilable with the arbitration which had been instituted;

Whereas there is question not of the cession of a concession but of the cession of a debt, and as the omission to notify previously the cession of a debt constitutes but a failure to observe a prescription of local legislation, though a similar prescription also exists in other legislations, it cannot be considered as required by absolute equity, at least when the debtor actually possessed knowledge of the cession and has paid neither the assignor nor the assignee;

III. AS REGARDS THE $147,638.79.

Whereas with regard to the $1,053 for the transport of passengers and merchandise in 1900 and the $25,845.20 for the hire of the steamers *Delta*, *Socorro*, *Masparro*, *Guanare*, *Heroe* from July, 1900, to April, 1902, the award of the umpire is based only on the omission of previous notification of the cession to the Government of Venezuela or of the acceptance by it. this means of defense being eliminated by the agreement, as mentioned before;

Whereas the same might be said of the claim for $19,571.34 for the restitution of national taxes, said to have been collected contrary to law, and of that of $3,509.22, on account of the retention of the *Bolivar;* but as it has not been proved, on the one hand, that the taxes here under discussion belonged to those from which the Orinoco Shipping & Trading Co. was exempt and, on the other hand, that the fact objected to proceeded from abuse of authority on the part of the Venezuelan consul; and as both claims must therefore be rejected on their merits, though on other grounds, the annulment of the award on this point would be without interest;

Whereas the decision of the umpire, allowing $27,692.31 instead of $28,461.53 for the retention and hire of the *Masparro* and *Socorro* from March 21 to September 18, 1902, as regards the $769.22 disallowed, is based here also only on the omission of notification of the cession of the debt;

Whereas the umpire's decision with regard to the other claims included under this head for the period after April 1, 1902, is based on a consideration of facts and on an interpretation of legal principles, which are subject neither to reexamination nor to revision by this tribunal, the decisions awarded on these points not being void;

IV. AS REGARDS THE $25,000.

Whereas the claim for $25.000 for counsel fees and expenses of litigation has been disallowed by the umpire in consequence of the rejection of the greater part of the claims of the United States of America, and as by the present award some of these claims having been admitted, it seems equitable to allow part of this sum, which the tribunal fixes ex aequo et bono at $7,000;

Whereas the Venezuelan law fixes the legal interest at 3 per cent, and as, under these conditions, the tribunal, though aware of the insufficiency of this percentage, can not allow more;

For these reasons:

The tribunal declares void the award of Umpire Barge, dated February 22, 1904, on the four following points:

1. As regards the $19,200;
2. As regards the $1,053;
3. As regards the $25,845.20;
4. As regards the $769.22 deducted from the claim for $28,461.53 for the retention and hire of the *Masparro* and *Socorro;*

And deciding, in consequence of the nullity thus recognized and by reason of the elements submitted to its appreciation:

Declares these claims founded and allows to the United States of America, besides the sums allowed by the award of the umpire of February 22. 1904, the sums of: (1) $19,200; (2) $1,053; (3) $25,845.20; (4) $769.22, the whole with interest at 3 per cent from the date of the claim (June 16, 1903), the whole to be paid within two months after the date of the present award;

Allows besides for the indemnification of counsel fees and expenses of litigation $7,000;

Rejects the claim for the surplus, the award of Umpire Barge of February 22, 1904, preserving, save for the above points, its full and entire effect.

Done at The Hague in the Permanent Court of Arbitration in triplicate original. October 25, 1910.

The President: LAMMASCH.

The Secretary General: MICHIELS VAN VERDUYNEN.

File No. 431.11 Or 4/172

The American Chargé d'Affaires to the Secretary of State.

No. 640.] AMERICAN LEGATION,
Caracas, December 20, 1910.

SIR: I have the honor to inclose herewith a check, drawn on Messrs. G. Amsinck & Co., New York, by the Bank of Venezuela, for sixty-four thousand four hundred and twelve dollars fifty-nine cents ($64,412.59) in payment of the award of The Hague Tribunal in the *Orinoco* steamship case.

I have, etc.,

SHELDON WHITEHOUSE.

CELEBRATION OF THE FIRST CENTENARY OF THE INDEPENDENCE OF VENEZUELA.[1]

File No. 831.415 A/6.

The Secretary of State to the Minister for Foreign Relations of Venezuela.

DEPARTMENT OF STATE,
Washington, February 27, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of November 3, 1910, in which you advise the Department that the Government of Venezuela will, during the first week of July next, celebrate the first centennial of the independence of the United States of Venezuela, and that your Government would be highly gratified should the President and the Government of the United States be represented at the festivities which will then take place.

I have the honor to say in reply that your communication has been laid before the President and that he has expressed his intention to be specially represented on the occasion of those festivities in which the Government and people of the United States will feel the most sympathetic interest.

Accept, etc.,

P. C. KNOX.

File No. 831.415 A/15.

The American Minister to the Secretary of State.

No. 35.] AMERICAN LEGATION,
Caracas, May 29, 1911.

SIR: I have the honor to inclose herewith the program[2] of the festivities arranged in celebration of Venezuela's centenary. I beg leave especially to call attention to the intention of the President of Venezuela to place a wreath on the statue of Washington on the 4th of July.

---

[1] See Foreign Relations, 1910, p. 864.

[2] Not printed.

Washington is the only foreigner, at least the only citizen of a non-Bolivian country, to whom a statue has been erected in Caracas, and this very graceful act of the President in personally honoring his memory on our independence day is, I feel sure, another mark of Gen. Gómez' friendship toward our country.

I respectfully and very strongly suggest that instructions be given to the representative of the United States at the centenary to place a wreath, in the name of the President and people of the United States, on the statue of Bolívar—the "Washington of South America"—on the 5th day of July—Venezuela's independence day—or on such other day as may be found, perhaps, to be more convenient after proper consultation with the Venezuelan Government.

It would be appropriate, if this suggestion meets with your approval, and that of the President, if some words in honor of Bolívar could be used on this occasion as coming directly from the President of the United States.

I have, etc.,

JOHN W. GARRETT.

File No. 831.415 A/11.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 12, 1911.

The President has decided to send a special ambassador, accompanied by a secretary and military and naval attachés, to the centenary of Venezuelan independence. Mr. Thomas C. Dawson is named special ambassador and Capt. Marsh, United States Navy, commanding the U. S. S. *North Carolina*, will be naval attaché to the special mission. The above named vessel will carry the mission to La Guaira, Venezuela. The names of the secretary and military attaché to the mission will be sent later.

WILSON.

File No. 831.415 A/18.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 16, 1911.

The ambassador will reside at the house reserved by the Venezuelan Government. Instructs to accept the offer with appropriate expressions of thanks. Mr. Hugh S. Knox, of the Department of State, will be secretary of the special mission, and Capt. Frank Parker, United States Army, military attaché. The *North Carolina*, which carries the special mission, will arrive at La Guaira in the evening of the 29th instant.

A luncheon followed by a reception will be given by the ambassador on the *North Carolina* on July 4 to the President of Venezuela and his Cabinet. The ambassador also desires to give an official dinner at the temporary embassy on such date as may be found convenient. The cruiser will remain at La Guaira until the 9th. Informally extend invitations to the President and the Cabinet to the luncheon

on the cruiser at the earliest opportunity. The formal invitations will be brought by Mr. Dawson.

The ambassador will place a wreath on the statue of Bolívar on the 5th.

KNOX.

File No. 831.415 A/22.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Caracas, June 20, 1911.

The President received the invitation to the ambassador's luncheon aboard the *North Carolina* with pleasure, but finds that it will be quite impossible for him to leave Caracas on July 4 or 5. He will gladly accept the invitation to lunch aboard for any day after the 5th. I suggest the following: Reception at the legation July 4, ambassador's dinner at the temporary embassy July 6, luncheon aboard the *North Carolina* July 8.

As the program is overcrowded it is advisable to issue invitations to the ambassador's dinner as early as possible.

GARRETT.

File No. 831.415 A/28b.

The President to the President of Venezuela.

[Telegram.]

THE WHITE HOUSE,
Washington, July 5, 1911.

Permit me to add to the messages of cordial friendship which are being conveyed to Your Excellency and the Government and people of Venezuela by the special embassy of the United States, my most sincere congratulations and those of the Government of the United States on this memorable occasion when the people of your country are celebrating the centennial anniversay of their independence, and to wish for your country continued prosperity. I also offer Your Excellency personally the assurance of my high regard and best wishes.

WM. H. TAFT.

File No. 831.415 A/31.

The President of Venezuela to the President.

[Telegram—Translation.]

CARACAS, *July 6, 1911.*

In the name of the people of Venezuela and in my own I thankfully acknowledge the felicitations Your Excellency sends me on the occasion of the celebration of the first centennial of our independence. Accept my best wishes for the growing prosperity of the great American Nation and Your Excellency's personal happiness.

JUAN VICENTE GÓMEZ.

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