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Foreign
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1929
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U.S. DEPARTMENT OF STATE

Papers Relating to the
Foreign Relations
of the
United States
1929

(In Three Volumes)
Volume III



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Aug. 15	<i>Memorandum by the Secretary of State</i> Conversation with the British Ambassador in which arrangements for Prime Minister MacDonald's visit in October were discussed.	1
Sept. 28 (286)	<i>From the Ambassador in Great Britain (tel.)</i> Departure of the Prime Minister.	2
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1929 June 4 (3688)	<i>From the Chargé in Great Britain</i> Decision of the British Government to extend customs privileges to American vice consuls in Great Britain; information that the Embassy has not yet received a reply to a further inquiry whether the same treatment would be accorded in other parts of the Empire.	45
Aug. 21 (177)	<i>From the Ambassador in Great Britain</i> Receipt of Foreign Office note of August 17 stating that customs privileges will be extended to American vice consuls in the British Dominions, with the exception of Canada, which has not yet given a decision, and to American vice consuls in the British colonies and protectorates.	46

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Aug. 24	<i>To the Consul General at Jerusalem (tel.)</i> Instructions to keep the Department informed; presumption that no injury has been done to American lives or property.	47
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May 30 (135)	<i>From the Chargé in Great Britain (tel.)</i> Foreign Office note (text printed) stating that the British Government reserves the right to consider each proposal for the holding or operation of petroleum concessions in such territories as Bahrein on its merits and is therefore unable to make the desired general statement of policy.	81

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1928 Feb. 29	<i>From the Greek Minister</i> Desire to enter into an agreement for the reciprocal exemption of nationals of both countries from income tax on shipping profits; exemption provisions of Greek law (excerpts printed); submittal of draft agreement.	83
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Mar. 21 (56)	<i>From the Ambassador in Great Britain (tel.)</i> Information from the Foreign Office that both the French and Italian Governments have refused to consent to the Commission's servicing the loan; understanding, however, from the Seligman representative, that the Italian Government has in fact consented. (Repeated to Paris, Rome, and Athens.)	94
Mar. 22 (106)	<i>From the Ambassador in France (tel.)</i> Information from the Foreign Office, March 20, that no decision has yet been reached. (Repeated to the Embassy in Great Britain.)	94
Mar. 23 (31)	<i>From the Ambassador in Italy (tel.)</i> Advice from the Greek Minister that he had been given to understand that the Italian Government perceived no objection to the Commission's servicing the loan but that the competent Italian financial authorities would have to be consulted before a definite view could be expressed; also, that he was subsequently informed that the financial authorities did not oppose the Commission's accepting service of the loan.	95
Mar. 29 (881)	<i>From the Minister in Greece</i> Opinion that the Commission proposes to maintain its unfavorable attitude; hope that the intervention of the Department in London may result in acceptance of service of the loan by the Commission.	95
Apr. 4 (28)	<i>From the Minister in Greece (tel.)</i> Request by the Prime Minister that the Department of State use its efforts with the British Government on behalf of the Greek Government to overcome objections to the Commission's accepting service of the loan.	97
Apr. 11 (78)	<i>To the Chargé in Great Britain (tel.)</i> Presentation by the Greek Minister of his Government's earnest hope that the question of servicing the Seligman loan may be promptly and favorably solved.	97

GREECE

UNSUCCESSFUL EFFORTS TO SECURE SERVICING BY INTERNATIONAL FINANCIAL
COMMISSION OF PROPOSED J. & W. SELIGMAN & CO. LOAN TO GREECE—CON.

Date and number	Subject	Page
1929 Apr. 15 (86)	<i>From the Chargé in Great Britain (tel.)</i> Preparation by the Foreign Office of draft reply disapproving Greek request for service of the Seligman loan, for submittal to the French and Italian Governments for approval in order that the replies may be identic. (Repeated to the Embassies in France and Italy.)	98
May 9	<i>Memorandum by the Secretary of State</i> Conversation with the Greek Minister in which it was decided to investigate the possibility of establishing a new American loan service.	98
May 15 (156)	<i>To the Chargé in France (tel.)</i> Instructions to inform the Foreign Office that it is still the Department's hope that the interested governments will place the Seligman loan under the Commission or will inform Greece of their unalterable opposition to allowing the Commission to undertake the service of any new Greek loan of any kind. (Instructions to repeat to the Embassy in Italy.)	99
June 4 (44)	<i>From the Ambassador in Italy (tel.)</i> Intention of the Foreign Office to approve British draft reply; understanding that reply states that the Commission opposes acceptance of service of the Seligman loan because it is not inclined either to extend its activities or to prolong its existence through undertaking new loans.	99
June 27 (52)	<i>From the Ambassador in Italy (tel.)</i> Advice from the Foreign Office that the views set forth in British communication are to be accepted in principle by the French and Italian Governments; understanding that the French Government is seeking to except the Turkish-Greek loan and that the Italian Government is suggesting that provision be made to extend the activities of the Commission in the event of an extreme emergency.	100
July 12 (189)	<i>From the Ambassador in Great Britain (tel.)</i> Approval of the British draft reply by the French and Italian Governments; understanding that approval was based on condition that the Greek share of the Ottoman debt will be serviced by the Commission.	100
July 17 (181)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to ascertain from the Foreign Office whether the recent change in the British Government has resulted in any change of attitude toward servicing the Seligman loan.	101
July 30 (210)	<i>From the Ambassador in Great Britain (tel.)</i> Inability of the Foreign Secretary to see how the British position could be altered from that taken in the draft note; his intention to reply in writing to the Ambassador's inquiry regarding British policy toward the Commission's accepting service of future loans.	101
Aug. 5 (41)	<i>To the Minister in Greece (tel.)</i> Understanding of Seligman & Co. that Commission's reply has been delivered to the Greek Government; instructions to send copy to the Department if such is the case.	102

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UNSUCCESSFUL EFFORTS TO SECURE SERVICING BY INTERNATIONAL FINANCIAL COMMISSION OF PROPOSED J. & W. SELIGMAN & CO. LOAN TO GREECE—CON.

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1929 Aug. 6 (72)	<i>From the Minister in Greece (tel.)</i> Nonreceipt by the Foreign Office of note from the Commission.	102
Aug. 12 (144)	<i>From the Ambassador in Great Britain</i> Foreign Office note, August 8 (text printed), advising that British decision in regard to the Seligman loan applies to any future Greek loans, with the exception of the Greek share of the Ottoman debt.	102
Sept. 3 (77)	<i>From the Chargé in Greece (tel.)</i> Note to the Greek Government from the Commission, August 28 (text printed), disapproving Greek request for servicing of the Seligman loan or any future loans with the exception of the Greek share of the Ottoman debt.	105
Sept. 14	<i>To Mr. A. I. Henderson of J. & W. Seligman & Co.</i> Inability of the Department at present to perceive any reason for protesting the Commission's refusal to accept service of the loan.	107
Sept. 20 (83)	<i>From the Chargé in Greece (tel.)</i> Efforts of the Greek Foreign Minister while at Geneva to convince the British Foreign Secretary that attitude toward the Seligman loan should be reconsidered on account of its being a productive loan.	107
Sept. 28 (9875)	<i>From the Chargé in France</i> Receipt of Foreign Office <i>aide-mémoire</i> of September 27 stating that the decisions taken by the governments represented on the Commission were not made with the idea of discriminating against American finance but that they were reached after a purely objective study.	108
Oct. 28 (1122)	<i>From the Minister in Greece</i> Cancellation of the loan contract by mutual consent.	108

REPRESENTATIONS ON BEHALF OF AMERICAN FIRMS INTERESTED IN RADIO AND TELEPHONE CONCESSIONS IN GREECE

1929 Jan. 31 (800)	<i>From the Minister in Greece</i> Information that the Legation arranged meeting with the Prime Minister for representative of the International Telephone and Telegraph Corporation of New York in connection with proposed new telephone system.	109
Apr. 29 (20)	<i>To the Chargé in Greece (tel.)</i> Instructions to inform the Minister of Communications that Durham and Co. understand that technical points in connection with the broadcasting concession are to be reexamined by a commission, that Mr. Wilson Durham will arrive in Athens about May 14, and that the Department hopes no decision will be taken until he has had an opportunity to present his views.	110

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REPRESENTATIONS ON BEHALF OF AMERICAN FIRMS INTERESTED IN RADIO AND TELEPHONE CONCESSIONS IN GREECE—Continued

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1929 May 2 (34)	<i>From the Chargé in Greece (tel.)</i> Receipt of letter from the Prime Minister stating that unless the Minister of Communications' decision to give the concession to Marconi is disapproved by a technical commission, the matter cannot be reopened; the Chargé's request to the Prime Minister that further hearings before the commission be postponed until Mr. Durham's arrival.	110
May 3 (21)	<i>To the Chargé in Greece (tel.)</i> Approval of request made to the Prime Minister; instructions to continue to accord every appropriate assistance in the matter.	111
May 6 (23)	<i>To the Chargé in Greece (tel.)</i> Instructions, in view of understanding that attempt will be made to nullify decision by the Technical Board of Trade favoring Durham and Co., to renew the representations authorized in telegram No. 20 of April 29.	111
May 15 (36)	<i>From the Chargé in Greece (tel.)</i> Advice that, upon learning that the technical commission decided to accept the Marconi offer, the Chargé expressed regret over the disregard of his many representations in behalf of granting Mr. Durham an opportunity to be heard; understanding from the Durham agent, however, that the matter is not yet closed.	112
May 16 (25)	<i>To the Chargé in Greece (tel.)</i> Approval of action taken; instructions to inform the Minister of Communications that Mr. Durham is en route from Paris to Athens.	113
May 25 (39)	<i>From the Chargé in Greece (tel.)</i> Information that an adjudication for the telephone concession is to be held on June 5 and that the Minister of Communications has indicated he would like the local International Telephone and Telegraph agent to make an offer.	113
May 28 (40)	<i>From the Chargé in Greece (tel.)</i> Confirmation by the Minister of Communications of press report that the radio contract was signed on May 27.	113
May 28 (41)	<i>From the Chargé in Greece (tel.)</i> Belief that, inasmuch as the radio contract was given to a British firm, the International has a good chance to secure the telephone concession; advice that the Minister of Communications is anxious that the International take part in the adjudication of June 5.	114
May 31 (28)	<i>To the Chargé in Greece (tel.)</i> Hope of the International that the adjudication may be postponed until June 19 in order that representative now in London may arrive in Athens; instructions to inform the Minister of Communications.	114

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REPRESENTATIONS ON BEHALF OF AMERICAN FIRMS INTERESTED IN RADIO AND TELEPHONE CONCESSIONS IN GREECE—Continued

Date and number	Subject	Page
1929 June 1 (29)	<i>To the Chargé in Greece (tel.)</i> Receipt from Durham and Co. of advice that award of radio contract to Marconi is being reviewed by the State Council; authorization to inform the Foreign Minister that by withholding the contract from Parliament pending the decision of the State Council the Greek Government will help prevent the creation of an unfortunate impression which will arise in American business circles through apparent failure to afford Mr. Durham adequate opportunity to state his case.	115
June 3 (45)	<i>From the Chargé in Greece (tel.)</i> Decision by the Minister of Communications that the telephone adjudication cannot be postponed beyond June 5; information that the Chargé is communicating directly with the Prime Minister and will express the apprehension mentioned in Department's telegram No. 29 of June 1 respecting the radio matter; suggestion that the Department send instructions to express the American Minister's apprehension with regard to both radio and telephone matters.	115
June 4 (30)	<i>To the Chargé in Greece (tel.)</i> Approval of action taken; disapproval of suggestion, in order not to give the impression that failure to accord Durham a radio contract has created an obligation of granting telephone concession to the International.	116
June 4 (48)	<i>From the Chargé in Greece (tel.)</i> Information that the Prime Minister has overruled decision of the Minister of Communications and that telephone adjudication will be postponed until June 19.	116
June 4 (49)	<i>From the Chargé in Greece (tel.)</i> Advice that the Prime Minister stated that, while he could not agree to withhold the contract from Parliament, he would give the opposition every opportunity to express itself; the Chargé's opinion that this reply may be interpreted as favorable to case of the American radio company.	117
June 5 (31)	<i>To the Chargé in Greece (tel.)</i> Gratification over the results secured by the Chargé's representations.	117
June 5 (51)	<i>From the Chargé in Greece (tel.)</i> Doubt that the Greek Government has gained the impression mentioned in telegram No. 30 of June 4.	118
June 22 (58)	<i>From the Chargé in Greece (tel.)</i> Information that on June 21 it had been decided to submit the Marconi radio award to the Chamber with the understanding that if rejected an entirely new adjudication would be held; also, that the British Legation has made strong representations to the Prime Minister and the prospects in favor of the American company are much less encouraging.	118
June 24 (34)	<i>To the Chargé in Greece (tel.)</i> Authorization to express to the Prime Minister the earnest hope that the Chamber may have all the facts before it in order that it may take a decision on the merits of the case.	119

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REPRESENTATIONS ON BEHALF OF AMERICAN FIRMS INTERESTED IN RADIO AND TELEPHONE CONCESSIONS IN GREECE—Continued

Date and number	Subject	Page
1929 June 25 (59)	<i>From the Chargé in Greece (tel.)</i> Submittal to the Foreign Minister of a note summing up the position of the Legation on the basis of the unfortunate impression mentioned in Department's telegram No. 29 of June 1; advice that telegram No. 34 of June 24 is being held in reserve for the moment.	119
July 6 (65)	<i>From the Minister in Greece (tel.)</i> Information that despite adverse report of the parliamentary commission on ratification of the Marconi contract, the Government's bill was read for the first time in Parliament the previous day; advice that the Minister is requesting delay for the second reading.	119
July 16 (67)	<i>From the Minister in Greece (tel.)</i> Adjournment of the Chamber until October 15 after agreement of the Prime Minister to withdraw the radio contract from the agenda. (Footnote: Transmittal, in instruction No. 420, August 30, 1930, to the Legation in Greece, of letter from Durham and Co. reporting success of negotiations in connection with the broadcasting concession.)	120
Sept. 11 (45)	<i>To the Chargé in Greece (tel.)</i> Hope that opportunity will be afforded to the International Telephone and Telegraph Corporation to compete for the telephone contract at the present time on a basis of equality with the other interested firms; instructions to inform the appropriate authorities.	120
Nov. 2 (1135)	<i>From the Minister in Greece</i> Decision of the Greek Government to sign telephone contract with Siemens and Halske of Berlin; advice that the International believes it best to withdraw entirely and await the conclusion of the negotiations going on with the German firm.	120

RELAXATION WITH REGARD TO AMERICAN CLERGYMEN OF CERTAIN RESTRICTIONS IMPOSED BY THE GREEK GOVERNMENT ON ENTRY OF MINISTERS OF RELIGION

1929 Oct. 18 (1104)	<i>From the Minister in Greece</i> Report that efforts to secure relaxation of certain restrictions upon the entry into Greece of American clergymen have been successful and that hereafter Greek consular authorities in the United States will grant visas to them, without the necessity of obtaining special permission from Athens, in cases where the sojourn in Greece will not exceed two months.	121
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AGREEMENT BETWEEN THE UNITED STATES AND GUATEMALA TO SUBMIT THE SHUFELDT CLAIM TO ARBITRATION

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1928 May 19 (44)	<i>To the Minister in Guatemala (tel.)</i> Instructions to investigate report that Congress is now considering a bill to cancel a chicle concession held by Mr. Percy W. Shufeldt.	123
May 21 (66)	<i>From the Minister in Guatemala (tel.)</i> Passage by the Assembly, May 15, of a bill disapproving the contract assigned to Mr. Shufeldt by Messrs. Nájera and Morales and directing that steps be taken to recover possession of the lands; advice that the President has 10 days within which to approve or veto.	123
May 28 (73)	<i>From the Minister in Guatemala (tel.)</i> Desire of Messrs. Shufeldt and Morales that the American Minister accompany Mr. Shufeldt and his lawyer to a hearing before the President on May 30 in support of their request that he veto the bill; the American Minister's intention, however, merely to request that the President receive Mr. Shufeldt and his representatives and give full consideration to their arguments.	124
May 29 (47)	<i>To the Minister in Guatemala (tel.)</i> Nonobjection to the Minister's attending the conference if he deems it desirable. (Footnote: Information that the Minister was not present at the conference.)	124
July 10 (2016)	<i>From the Minister in Guatemala</i> Memorandum of a conversation with the Foreign Minister, June 27 (text printed), in which he suggested that, inasmuch as his Government was disposed to pay Mr. Shufeldt a reasonable sum in order to settle the matter, the American Minister act as a sort of unofficial arbitrator to determine an equitable amount, and the American Minister stated his preference not to act in that capacity. Advice that, in a subsequent conversation on July 10 concerning report that licenses to extract chicle in the Shufeldt territory are to be issued, the Foreign Minister stated he would take up the matter with the Minister of Agriculture and expressed the hope that a satisfactory agreement might be reached between the latter and Mr. Shufeldt.	125
July 16 (2019)	<i>From the Minister in Guatemala</i> Information that a letter had been received from Mr. Shufeldt in which he expressed desire for action by the President in the matter of the legislative bill; and that, in reply, the Minister had stated that the bill was signed on July 4 and had reported his conversation with the Foreign Minister, July 10.	127
Aug. 10 (1108)	<i>To the Minister in Guatemala</i> Authorization, if again requested to take action on Mr. Shufeldt's behalf, to advise the Foreign Office that the coming into force of the bill effectively deprives him of the enjoyment of a valuable property right and therefore entitles him to the prompt payment of just compensation.	128

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1928 Sept. 4 (2083)	<i>From the Chargé in Guatemala</i> Request by Mr. Shufeldt that the Legation ask that court proceedings be suspended pending negotiations for a direct settlement and also that the Legation carry on the negotiations. Receipt of Foreign Office memorandum stating that Mr. Shufeldt always has recourse to the courts.	128
Sept. 15 (66)	<i>To the Chargé in Guatemala (tel.)</i> Opinion that the Chargé would be justified in making informal statement to the Foreign Office as to advisability of arriving at amicable solution of the controversy, suggesting that court proceedings be held in abeyance, and pointing out obstacles in the way of Mr. Shufeldt's obtaining legal counsel and the possibility that alternative to amicable settlement would be a vexatious diplomatic claim.	130
Sept. 17 (2103)	<i>From the Chargé in Guatemala</i> Intention to inform the Ministers of Agriculture and Foreign Affairs of the name of the person designated to negotiate for Mr. Shufeldt when advised by him; also to make the statement authorized in telegram No. 66 of September 15.	131
Oct. 16 (2148)	<i>From the Chargé in Guatemala</i> Probability that the Foreign Minister, rather than negotiate on the basis of Mr. Shufeldt's claim of approximately \$460,000, would allow the matter to develop into a diplomatic claim.	132
Nov. 5 (1124)	<i>To the Chargé in Guatemala</i> Suggestion that, if Mr. Shufeldt were advised that the conditions under which the Department would be warranted in supporting a claim have not yet arisen, he might be disposed to negotiate on a basis which would offer a greater promise of success than does his present basis.	132
Nov. 20 (2191)	<i>From the Chargé in Guatemala</i> Understanding that memorandum of agreement whereby the Government will pay Mr. Shufeldt \$100,000—one-half in cash and the remainder within four months—and also give him a release from Messrs. Morales and Nájera for any claim, is agreeable to the President and will be submitted to the Cabinet for final approval.	133
Dec. 4 (2202)	<i>From the Minister in Guatemala</i> Transmittal of memorandum presented to Mr. Shufeldt's representative by the Ministers of Agriculture and Finance, November 30, in which the Government proposed to pay the sum of \$100,000—\$10,000 in cash, \$15,000 in one year, and the remainder in equal installments of \$25,000 each in two, three, and four years.	134
Dec. 31 (2223)	<i>From the Minister in Guatemala</i> Refusal of Mr. Shufeldt to accept the Guatemalan proposal of November 30, and decision that so far as he is concerned the negotiations are closed.	136
1929 May 9 (22)	<i>To the Minister in Guatemala (tel.)</i> Instructions to bring to the attention of the appropriate authorities the probability that the Department will present claim.	136

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1929 June 14 (30)	<i>To the Minister in Guatemala (tel.)</i> Conclusion that the U. S. Government is warranted in presenting a diplomatic claim; instructions to express to the appropriate authorities the earnest hope that they will negotiate a settlement on the basis of a memorandum of July 20, 1928, initialed by the American Minister and the Foreign Minister. (Footnote: Excerpt from the memorandum.)	137
June 20 (78)	<i>From the Minister in Guatemala (tel.)</i> Information that the contents of telegram No. 30, June 14, were communicated to the new Foreign Minister, who will study the matter and consult the President and the Cabinet.	137
June 29 (2483)	<i>From the Minister in Guatemala</i> Memorandum presented to the Foreign Office, June 20 (text printed), covering the American Minister's remarks on that day; information that on June 29 the Foreign Minister stated that he and the Minister of Agriculture would be pleased to receive Mr. Shufeldt's representative on July 1 for the purpose of discussing a compromise.	138
July 1 (85)	<i>From the Minister in Guatemala (tel.)</i> Telegram to Mr. Shufeldt from his representative (text printed), reporting that, having no instructions, he was unable to present a proposal as requested by the Ministers of Foreign Affairs and Agriculture, and that they made no offer.	139
July 3 (36)	<i>To the Minister in Guatemala (tel.)</i> Instructions to inform the Foreign Minister that while Mr. Shufeldt is prepared to submit evidence in support of claim totaling \$500,000 he will consider a smaller amount in cash.	140
July 6 (87)	<i>From the Minister in Guatemala (tel.)</i> Receipt of memorandum from the Foreign Minister stating that Mr. Shufeldt has previously been informed that he will receive due attention provided that he adjusts his procedure to constitutional precepts; observation that in conversation the Foreign Minister has contended that Mr. Shufeldt's remedy is to apply to the courts for redress or to present a claim for damages to the Assembly.	140
July 10 (37)	<i>To the Minister in Guatemala (tel.)</i> Instructions to inform the Foreign Minister that the Department considers that the Guatemalan Government committed itself to make a settlement with Mr. Shufeldt, and hopes that it will now state definitely the terms of settlement it is prepared to make.	141
July 12 (91)	<i>From the Minister in Guatemala (tel.)</i> Advice that the Foreign Minister is studying memorandum presented by the Legation in accordance with telegram No. 37 of July 10, and will submit the matter to the Cabinet on the 16th.	141

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1929 July 19 (92)	<i>From the Minister in Guatemala (tel.)</i> Receipt of Foreign Office memorandum stating that the Government's efforts to arrive at a settlement with Mr. Shufeldt cannot be considered as recognition of his alleged rights, and proposing that (1) the American Minister act as a friendly arbitrator under the conditions set forth in his memorandum of June 27, 1928, or (2) that direct arrangement be entered into on the same terms as contained in Guatemalan memorandum of November 30, 1928, or (3) that, in event neither of these proposals is accepted, the matter be submitted to a tribunal established under one of the treaties in force between the two nations.	142
July 19 (93)	<i>From the Minister in Guatemala (tel.)</i> Information that Mr. Shufeldt disputes a claim by Messrs. Morales and Nájera for \$50,000 royalty on chicle gathered before the concession was disapproved.	143
July 26 (40)	<i>To the Minister in Guatemala (tel.)</i> Apparent necessity of resorting to the Guatemalan proposal that the case be submitted to an arbitral tribunal; suggestion that the special tribunal provided under the pan-American pecuniary claims convention of 1910 be used, and that a single arbitrator be named; instructions to inform the Foreign Minister.	143
July 29 (98)	<i>From the Minister in Guatemala (tel.)</i> Willingness of the Foreign Minister to submit the case to arbitration under the pecuniary claims convention; his desire that the tribunal be composed of three arbitrators.	144
Aug. 7 (44)	<i>To the Minister in Guatemala (tel.)</i> Preference for a single arbitrator; suggestion that Sir Herbert Sisnett, the Chief Justice of British Honduras, might be suitable and that he might sit at Belize; instructions to discuss the matter with the Foreign Minister.	145
Aug. 8 (102)	<i>From the Minister in Guatemala (tel.)</i> Foreign Minister's agreement to selection of the Chief Justice of British Honduras.	145
Aug. 28 (1184)	<i>To the Minister in Guatemala</i> Information that the Department is taking steps to ascertain whether the Chief Justice of British Honduras will serve; instructions to present note to the Foreign Office setting forth the arbitral question and procedure (text printed), and to report response.	146
Sept. 21 (118)	<i>From the Minister in Guatemala (tel.)</i> Receipt of note from the Foreign Minister, September 20, stating objections to the terms of the arbitral question and suggesting modifications.	149
Sept. 21 (2572)	<i>From the Minister in Guatemala</i> Foreign Minister's note of September 19 (text printed), stating objections to the terms of the arbitral question and suggesting modifications.	149

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Oct. 5 (54)	<i>To the Minister in Guatemala (tel.)</i> Suggestions for revising the statement if the Guatemalan Government objects to the statement contained in telegram No. 53 of October 1.	153
Oct. 9 (2607)	<i>From the Minister in Guatemala</i> Foreign Office note No. 10564 of October 8 suggesting a new arbitral formula which may be acceptable with a slight but important change and modifications in procedure, and the American Minister's reply No. 85 of the same date (texts printed).	153
Oct. 9 (2608)	<i>From the Minister in Guatemala</i> Foreign Office note No. 10615 (text printed) accepting the modifications of proposal of October 8 suggested in the American Minister's reply of the same date.	159
Oct. 30 (62)	<i>To the Minister in Guatemala (tel.)</i> Acceptance of the arbitral formula and procedure as now proposed, with certain additional changes; information that the Chief Justice of British Honduras will serve as arbitrator.	160
Oct. 31 (141)	<i>From the Minister in Guatemala (tel.)</i> Inquiry whether the first paragraph of the note may mention the Chief Justice of British Honduras as the arbitrator; Foreign Minister's agreement to the changes proposed in telegram No. 62 of October 30.	161
Nov. 2 (65)	<i>To the Minister in Guatemala (tel.)</i> Acceptance of proposed change, with the insertion of the name of the arbitrator.	161
Nov. 4 (2635)	<i>From the Minister in Guatemala</i> Notes exchanged between the American Minister and the Foreign Minister, November 2 (texts printed), containing the terms for submitting the Shufeldt claim to arbitration.	161
1930 Jan. 17	<i>To the Consul at Belize</i> Instructions to inform the Arbitrator on February 1, 1930, of the names of the American representatives and to present a copy of this document, certified under the consular seal.	164
Feb. 1 (162)	<i>From the Consul at Belize</i> Information that the Arbitrator accepted the credentials of both parties to the arbitration and declared the proceedings open as of February 1.	165

HAITI

DECISION OF PRESIDENT BORNO NOT TO BECOME A CANDIDATE FOR REELECTION

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1929 Mar. 14 (1375)	<i>From the High Commissioner in Haiti</i> Report on the question of holding legislative elections in January 1930.	166
Apr. 11 (20)	<i>To the High Commissioner in Haiti (tel.)</i> Opinion that article 72 of the Constitution renders President Borno ineligible for reelection; instructions to inform him of this view.	170
Apr. 15 (26)	<i>From the High Commissioner in Haiti (tel.)</i> Assurance by President Borno that he will not be a candidate for the presidency in 1930.	170
Apr. 20 (28)	<i>From the High Commissioner in Haiti (tel.)</i> Advice that President Borno does not interpret the Constitution as making him ineligible; his desire for the Department's opinion regarding the holding of legislative elections in 1930.	171
Aug. 22 (425)	<i>To the High Commissioner in Haiti</i> Unwillingness to insist that President Borno go against his better judgment in ordering general elections in 1930; opinion that the primary responsibility rests on him.	171
Oct. 24 (1537)	<i>From the High Commissioner in Haiti</i> Report of a conversation with President Borno in which he agreed to make announcement that he would not under any condition run for the presidency or accept election.	172
Nov. 29 (87)	<i>From the High Commissioner in Haiti (tel.)</i> President Borno's message to the Council of State (excerpt printed), announcing that he is not a candidate for the presidency; suggestion that the Department congratulate him on his attitude toward reelection and make its action public.	174
Dec. 2 (88)	<i>From the High Commissioner in Haiti (tel.)</i> Opinion that a public announcement by the Department of President Borno's message would have a salutary effect in quieting the political activities of presidential candidates who are now aiding and abetting the striking students.	174
Dec. 2 (58)	<i>To the High Commissioner in Haiti (tel.)</i> Instructions to express to President Borno the gratification of the Department upon learning of his message to the Council of State.	174
Dec. 3 (1570)	<i>From the High Commissioner in Haiti</i> Maintenance by President Borno of the opinion that he is eligible under the Constitution for a "first term of 6 years;" the High Commissioner's reply that the Department is aware of his view, although it does not agree.	175

HAITI

STUDENTS' STRIKE AND DECLARATION OF MARTIAL LAW

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1929 Nov. 12 (1550)	<i>From the High Commissioner in Haiti</i> Information that on November 10 the striking students paraded through the downtown sections of Port-au-Prince and that President Borno has appointed a committee to investigate the alleged grievances.	175
Nov. 21 (1562)	<i>From the High Commissioner in Haiti</i> Refusal of the striking students of the Ecole Centrale to accept the provisions of an <i>arrêté</i> issued by President Borno, November 18 (text printed), and to return to their classes.	176
Nov. 25 (1564)	<i>From the High Commissioner in Haiti</i> Efforts of the Opposition to make political capital out of the students' strike.	178
Nov. 27 (1565)	<i>From the High Commissioner in Haiti</i> Decision of the striking students not to return; continuance of sympathetic strike of other students. Memorandum presented to President Borno by the High Commissioner, November 25 (text printed), suggesting changes in the organization and administration of the Ecole Centrale.	179
Nov. 29 (1566)	<i>From the High Commissioner in Haiti</i> Spread of the strike to students in Jacmel and Gonaives; rumors of efforts to induce Government employees to strike; conviction that the strike is being fostered by politicians, the mulatto class, and the French religious orders opposed to the American system of education.	181
Nov. 30 (1567)	<i>From the High Commissioner in Haiti</i> Lack of improvement in the strike situation; possibility that the matter may assume serious proportions, especially at Port-au-Prince.	183
Dec. 2 (1568)	<i>From the High Commissioner in Haiti</i> Failure of the Government and students to arrive at a settlement; continuance of efforts by the striking students to obtain the cooperation of other Government departments; information that the High Commissioner has counseled the Government against taking drastic measures that might result in bloodshed.	186
Dec. 3 (1569)	<i>From the High Commissioner in Haiti</i> Information that the strike is rapidly spreading; hope that if the loyalty of the Garde can be maintained and no untoward incidents occur, the strike will gradually diminish and die.	187
Dec. 3 (89)	<i>From the High Commissioner in Haiti (tel.)</i> Recommendation for immediate increase in strength of the Marine brigade, in view of the increasingly serious situation and the possibility of disloyalty of the Garde.	188
Dec. 4 (90)	<i>From the High Commissioner in Haiti (tel.)</i> Decision to have the marines place the city under martial law and to have the Brigade Commander issue a proclamation to that effect; understanding that dock laborers at Aux Cayes have struck.	188

HAITI

STUDENTS' STRIKE AND DECLARATION OF MARTIAL LAW—Continued

Date and number	Subject	Page
1929 Dec. 4 (91)	<i>From the High Commissioner in Haiti (tel.)</i> Proclamation to be issued by the Marine brigade (text printed), advising that conditions make it necessary to declare martial law, prohibiting anti-American articles or speeches and advising that offenses against this order will be tried before a military tribunal, and placing a night curfew on the inhabitants of Port-au-Prince and Cape Haitien.	189
Undated [Rec'd Dec. 4]	<i>From the Vice Consul at Cape Haitien (tel.)</i> Occurrence of demonstration sympathetic with disturbance in Port-au-Prince; advice that there has been no violence yet but that it may be necessary to declare martial law.	190
Dec. 4 (59)	<i>To the High Commissioner in Haiti (tel.)</i> Reluctance to increase the Marine brigade unless absolutely necessary; preference that Americans in places where protection cannot be afforded be withdrawn to Port-au-Prince or Cape Haitien if they are in imminent personal danger; willingness to request dispatch of marines to Guantanamo to be held in readiness in case of emergency if such action is considered necessary.	190
Dec. 4 (60)	<i>To the High Commissioner in Haiti (tel.)</i> Disapproval of the measures described in telegram No. 90 unless absolutely necessary for the protection of lives.	190
Dec. 5 (92)	<i>From the High Commissioner in Haiti (tel.)</i> Information that the local situation on December 4 would have gotten out of hand and there would have resulted serious loss of life among both Haitians and Americans, had not the High Commissioner taken extreme measures; advice that the Marine reinforcements requested are to bolster the Garde at ports where there are customhouses, hospitals, and public offices established pursuant to treaty obligations and under the direction of Americans who have their families with them; renewal, therefore, of request contained in telegram No. 89 of December 3.	190
Dec. 5	<i>From the Vice Consul at Cape Haitien (tel.)</i> Advice that the Cape Haitien district is quiet under martial law.	192
Dec. 5 (61)	<i>To the High Commissioner in Haiti (tel.)</i> Desire that the proclamation contained in telegram No. 91, December 4, be withheld.	192
Dec. 5 (62)	<i>To the High Commissioner in Haiti (tel.)</i> Information that the Navy has been requested to place the <i>Galveston</i> at the order of the High Commissioner for the moral effect of its presence in Haitian waters; opinion that the situation does not seem to require the display of Marine forces in the outlying sections; doubt of the wisdom of the martial-law proclamation, and hope that it may soon be modified or withdrawn.	192
Dec. 5 (93)	<i>From the High Commissioner in Haiti (tel.)</i> Advice that events forced the High Commissioner to have the proclamation issued on the afternoon of December 4.	193
Dec. 6 (63)	<i>To the High Commissioner in Haiti (tel.)</i> Disapproval of the trial of Haitians for serious offenses by military courts or the imposition of heavy sentences except in extreme cases and after the Department has had an opportunity to consider the facts.	193

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STUDENTS' STRIKE AND DECLARATION OF MARTIAL LAW—Continued

Date and number	Subject	Page
1929 Dec. 6 (64)	<i>To the High Commissioner in Haiti (tel.)</i> Issuance of orders for the immediate dispatch of 500 marines to Haiti.	193
Dec. 6 (95)	<i>From the High Commissioner in Haiti (tel.)</i> Information that the effect of the measures taken by the High Commissioner has spread throughout the country and that conditions are stabilizing; opinion that, in view of present conditions and the placing of the <i>Galveston</i> at the High Commissioner's disposal, increase in strength of the Marine brigade is not necessary at present.	194
Dec. 6 (95 [96?])	<i>From the High Commissioner in Haiti (tel.)</i> Report that Marine patrol was obliged to fire into a mob moving on Aux Cayes, and that all is now quiet there; instructions to the <i>Galveston</i> to proceed to Jacmel, where the country people are rumored to be in revolt; suggestion that the Marine reinforcements be sent, as the situation is not clearing up as rapidly as it was hoped.	195
Dec. 7 (97)	<i>From the High Commissioner in Haiti (tel.)</i> Issuance of order to the Brigade Commander for strict compliance with the instructions contained in telegram No. 63 of December 6.	195
Dec. 7 (98)	<i>From the High Commissioner in Haiti (tel.)</i> Report that mob activity and agitation continue throughout the country.	196
Dec. 8 (100)	<i>From the High Commissioner in Haiti (tel.)</i> Report that all is quiet; plan, upon arrival of reinforcements, to increase force at Cape Haitien by 100 and to maintain remainder at Port-au-Prince; also, if Port-au-Prince and Cape Haitien are still quiet, to remove curfew restrictions.	196
Dec. 9	<i>From the Vice Consul at Cape Haitien (tel.)</i> Information that quiet has been restored.	197
Dec. 9 (102)	<i>From the High Commissioner in Haiti (tel.)</i> Report that the situation is quiet, that some of the students have returned to schools, and that steps have been taken to prevent the rumored importation of arms.	197
Dec. 9 (67)	<i>To the High Commissioner in Haiti (tel.)</i> Instructions to advise whether the orders for the marines to go to Haiti can be countermanded, or if this cannot be done, whether conditions have not sufficiently improved so that only a portion of them may be disembarked and the remainder sent on to Guantanamo.	198
Dec. 9 (68)	<i>To the High Commissioner in Haiti (tel.)</i> Opinion that landing of marines should be avoided if possible; information that the <i>Wright</i> has been ordered to wait 25 miles off Port-au-Prince pending orders.	198
Dec. 9 (103)	<i>From the High Commissioner in Haiti (tel.)</i> Letter from President Borno congratulating the High Commissioner on the measures he took in establishing martial law, and annexed proclamation stating that the chief of the American forces was obliged to put martial law into effect in order to maintain public safety from disorders fomented by political opposition (texts printed).	199

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STUDENTS' STRIKE AND DECLARATION OF MARTIAL LAW—Continued

Date and number	Subject	Page
1929 Dec. 9 (104)	<i>From the High Commissioner in Haiti (tel.)</i> Advice that the situation is problematical, but that with present strength it should be possible to control matters unless unrest should develop in the interior; recommendation that the <i>Wright</i> be diverted and marines held at Guantanamo subject to further orders, and that the <i>Galveston</i> remain in Haitian waters.	200
Dec. 10 (106)	<i>From the High Commissioner in Haiti (tel.)</i> Information that all is quiet, that conditions throughout Haiti continue to improve, and that the <i>Galveston</i> may be released on return to Port-au-Prince; petition to the Court of First Instance by Port-au-Prince lawyers, December 5 (text printed), protesting the presence of armed forces and stating decision to abstain from pleading before the courts until a new order is established.	200
Dec. 12 (107)	<i>From the High Commissioner in Haiti (tel.)</i> Advice that all is quiet; report that the disorders in the other portions of Haiti were incited by agitators from Port-au-Prince; opinion that reinforcements requested by the Brigade Commander at Cape Haitien are not necessary at present.	201
Dec. 13 (113)	<i>From the High Commissioner in Haiti (tel.)</i> Report of efforts to induce students to return to schools; plan, if conditions remain quiet, to direct removal of curfew as of December 16.	202
Dec. 14 (115)	<i>From the High Commissioner in Haiti (tel.)</i> Advice that all is quiet; decision not to reinforce the marines at Cape Haitien.	202
Dec. 15 (116)	<i>From the High Commissioner in Haiti (tel.)</i> Information that all is quiet and that the <i>Galveston</i> will be released from duty in Haitian waters on December 17.	203
Dec. 16 (117)	<i>From the High Commissioner in Haiti (tel.)</i> Opinion that the situation is much improved; advice that restriction on circulation at night will be removed immediately.	203
Dec. 18 (120)	<i>From the High Commissioner in Haiti (tel.)</i> Information that all is quiet and that the educational system of Service Technique is being reestablished with slow progress.	203
Dec. 21 (123)	<i>From the High Commissioner in Haiti (tel.)</i> Advice that all is quiet, but that Darien medical and law school students are still on strike; expectation that the number of rural farm and industrial schools operating will be increased after the holidays. Report that the Garde, which has been operating as a regiment of the brigade, has been returned to its independent function and that this action places the military situation in the condition existing prior to December 4.	204
Dec. 31 (79)	<i>To the High Commissioner in Haiti (tel.)</i> Commendation for dealing with the recent disturbances with so little show of force and bloodshed.	204

HAITI

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

Date and number	Subject	Page
1929 Sept. 25	<i>From President Hoover</i> Suggestion that a commission be appointed to examine U. S. policy in connection with Haiti and to determine the course to be followed for the future.	204
Sept. 30	<i>To President Hoover</i> Agreement with suggestion.	205
Dec. 4	<i>Memorandum by Mr. Winthrop R. Scott, Division of Latin American Affairs</i> Conversation with the Haitian Chargé in which he made known President Borno's opposition to a commission being sent to Haiti to investigate purely Haitian affairs.	205
Dec. 7	<i>Message of the President of the United States to Congress</i> Request that immediate dispatch of a commission to Haiti be authorized and that \$10,000 be appropriated for this purpose.	207

GENERAL INSTRUCTIONS TO THE HIGH COMMISSIONER IN HAITI

1929 Mar. 14 (406)	<i>To the High Commissioner in Haiti</i> General instructions for the guidance of the High Commissioner and other treaty officials in Haiti.	208
Mar. 25 (24)	<i>From the High Commissioner in Haiti (tel.)</i> Desire to withhold action on instruction No. 406 of March 14 pending receipt by the Department of the High Commissioner's request for reconsideration of certain features.	211
Apr. 2 (1391)	<i>From the High Commissioner in Haiti</i> Request for reconsideration of instructions respecting the High Commissioner's relations with the Financial Adviser-General and other treaty officials.	211
Oct. 25 (430)	<i>To the High Commissioner in Haiti</i> Opinion that the intent of instruction No. 406 of March 14 should be made clearer; supplementary explanations and modifications thereof.	215

GOOD OFFICES ON BEHALF OF FRENCH HOLDERS OF OLD BONDS OF THE NATIONAL
RAILROAD OF HAITI

1929 May 3	<i>From the French Ambassador</i> Request for the use of good offices with the Financial Adviser of Haiti in order to induce him to release Series C bonds of the Republic of Haiti for exchange of the remainder of old bonds of the National Railroad of Haiti still outstanding.	218
July 1	<i>To the French Ambassador</i> Advice that the exchange period under the Series C loan contract has expired but that the problem is expected to be settled through a proposed new contract to be entered into between the Haitian Government and the National Railroad.	218

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GOOD OFFICES ON BEHALF OF FRENCH HOLDERS OF OLD BONDS OF THE NATIONAL RAILROAD OF HAITI—Continued

Date and number	Subject	Page
1929 July 22	<i>From the French Ambassador</i> Urgent request that the case be given further consideration so that the Financial Adviser may without delay release the Series C bonds necessary for the exchange of the old railroad bonds.	220
Aug. 17	<i>To the French Ambassador</i> Information that the Financial Adviser will be asked to make a further effort to effect a settlement with the holders of the old railroad bonds.	221
Aug. 17 (914)	<i>To the Chargé in Haiti</i> Instructions to inform the Financial Adviser that the Department feels it is very desirable that a method be found for reaching a settlement with the remaining holders of the old railroad bonds.	222
Sept. 10 (45)	<i>To the Chargé in Haiti (tel.)</i> Instructions to inquire what progress is being made in accordance with instruction No. 914 of August 17; hope that the Haitian Government will enact legislation to take care of the outstanding bonds in order that foreclosure proceedings contemplated by certain holders of the old bonds may be avoided.	223
Sept. 11 (1498)	<i>From the Chargé in Haiti</i> Information that President Borno has authorized the Financial Adviser to offer to exchange the old bonds at a rate of \$72.39 in Series C bonds bearing the current coupon; his refusal to agree to the payment of any cash as a part of the present settlement, inasmuch as funds to cover the full cash settlement were turned over to the receiver of the National Railroad in 1924.	223
Sept. 20 (48)	<i>To the Chargé in Haiti (tel.)</i> Nonobjection to proposed settlement; assumption that the money already provided for the cash payments is still in the hands of the receiver and is available.	225

HONDURAS

REPRESENTATIONS ON BEHALF OF AMERICAN INSURANCE COMPANIES DOING BUSINESS IN HONDURAS AGAINST STAMP TAX AND CASH DEPOSIT DISCRIMINATION

1929 Feb. 4 (328)	<i>To the Minister in Honduras</i> Opinion that Honduran decree of October 5, 1927, imposing taxes on agents of foreign insurance companies and assessing higher stamp taxes upon American policies than on Honduran policies, is in violation of U. S.-Honduran treaties of 1864 and 1923; instructions to make representations to the Foreign Office, expressing hope that the decree may be modified.	226
Mar. 25 (29)	<i>From the Minister in Honduras (tel.)</i> Plan to discuss informally with the Honduran Government its renewed demand of the Pan American Life Insurance Co. for deposit of \$50,000 under decree No. 107 of April 1, 1922; request for instructions to enter formal protest.	227

HONDURAS

REPRESENTATIONS ON BEHALF OF AMERICAN INSURANCE COMPANIES DOING BUSINESS IN HONDURAS AGAINST STAMP TAX AND CASH DEPOSIT DISCRIMINATION—Continued

Date and number	Subject	Page
1929 Mar. 27 (25)	<i>To the Minister in Honduras (tel.)</i> Authorization to take up the matter formally.	228
Apr. 27 (871)	<i>From the Minister in Honduras</i> Information that the Foreign Office has replied to representations made by the Minister as directed in instruction No. 328 of February 4, by stating that American insurance companies will be able to do business in Honduras on equal basis with the national companies; also, that the Pan American Life Insurance Co. is now doing business without having made the deposit of \$50,000.	228
May 18 (891)	<i>From the Chargé in Honduras</i> Receipt of Foreign Office note stating that the \$50,000 deposit will not be required of American insurance companies.	229

HUNGARY

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

1929 Jan. 26	<i>Treaty Between the United States of America and Hungary</i> Of arbitration.	230
Jan. 26	<i>Treaty Between the United States of America and Hungary</i> Of conciliation.	232

IRISH FREE STATE

LIABILITY TO TAXATION OF PROPERTY LEASED BY THE IRISH FREE STATE FOR LEGATION PURPOSES

1929 Feb. 7	<i>From the First Secretary of the Irish Legation</i> Inquiry whether repayment may be made to the lessee for District of Columbia taxes presumably included in rental charges on property leased for Legation purposes.	234
Mar. 15	<i>To the Irish Minister</i> Excerpt from opinion of the Solicitor of the Department of State (text printed), stating that the matter of payment of tax by the Legation is entirely a matter between the owner of the property and the Legation.	234

JAPAN

DECLARATION BY JAPAN UPON RATIFICATION, ON JUNE 27, 1929, OF THE TREATY
FOR THE RENUNCIATION OF WAR

Date and number	Subject	Page
1929 Jan. 31 (1084)	<i>From the Chargé in Japan</i> Information that the Prime Minister was interpellated in the Diet on January 24 concerning the phrase "in the names of the respective peoples" contained in article 1 of the treaty for the renunciation of war.	237
Feb. 25 (8)	<i>To the Chargé in Japan (tel.)</i> Desire to have Japan's ratification of the treaty before March 4; instructions to see the Foreign Minister and advise what can be done.	238
Feb. 26 (14)	<i>From the Chargé in Japan (tel.)</i> Inability of the Prime Minister to ask the Privy Council to consider the treaty while political discussions concerning the treaty are going on in the Diet.	239
Feb. 28 (15)	<i>From the Chargé in Japan (tel.)</i> Prime Minister's assurance that he will do his best to obtain ratification at an early date, but inability to promise to obtain it by March 4.	240
Mar. 9 (14)	<i>To the Chargé in Japan (tel.)</i> Intimation to the Japanese Ambassador, March 7, that should Japan not intend to ratify the treaty within the near future, the other powers might be asked to sign a protocol putting it into effect without Japanese ratification.	240
Mar. 11 (24)	<i>From the Chargé in Japan (tel.)</i> Advice that members of the Privy Council have insisted that a reservation with regard to the phrase "in the names of their respective peoples" should be attached to the treaty to clarify Japan's position; opinion that ratification may be counted upon as soon as those members are satisfied that there is not involved any question affecting the Japanese Constitution.	241
Mar. 14	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which he was informed that Japan was the only power which had not ratified, and he stated that he would wire his Government again.	241
Mar. 18 (20)	<i>To the Chargé in Japan (tel.)</i> Inquiry whether press report from Tokyo, March 15, regarding declaration to the Diet by the Prime Minister may be taken to mean that steps have been taken at Tokyo for ratification; instructions, if the press report is incorrect, to inform the Prime Minister of the suggestion that the treaty be put into effect among the other powers by the signing of the protocol.	242
Mar. 19 (25)	<i>From the Chargé in Japan (tel.)</i> Advice that the remarks attributed to the Prime Minister are merely stock answers to questions concerning the treaty.	242
Mar. 20 (26)	<i>From the Chargé in Japan (tel.)</i> Information from the Vice Minister of Foreign Affairs that it is hoped to have ratification by the middle of April; the Chargé's opinion that action to put the treaty into effect without Japan's adherence would imply doubt of U. S. belief in the good faith of the Japanese Government.	243

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DECLARATION BY JAPAN UPON RATIFICATION, ON JUNE 27, 1929, OF THE TREATY FOR THE RENUNCIATION OF WAR—Continued

Date and number	Subject	Page
1929 Mar. 20 (21)	<i>To the Chargé in Japan (tel.)</i> Advice that, as the treaty will undoubtedly be ratified in April, no steps likely to offend or embarrass Japan will be taken.	244
Mar. 22 (30)	<i>From the Chargé in Japan (tel.)</i> Expectation of the Prime Minister that the treaty will be submitted to the Privy Council after the close of the Diet; his hope to have ratification by the middle of April.	245
Apr. 6 (38)	<i>From the Chargé in Japan (tel.)</i> Information from the Vice Minister of Foreign Affairs that the Government is still experiencing difficulty with some of the Privy Councilors in regard to the phrase "in the names of their respective peoples."	245
Apr. 25	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which he stated that his Government hoped to ratify the treaty within a few weeks.	246
Apr. 26	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador in which he advised that the Privy Council was now ready to submit the treaty to the Emperor for ratification and that the latter at the time of ratification would issue a declaration (text printed) respecting the phrase "in the names of their respective peoples," on which the Ambassador would like to have a favorable expression of opinion. (Footnote: Marginal notation stating that the Japanese Ambassador was informed of the Department's nonobjection to the declaration.)	246
May 15	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador in which he stated that the declaration already approved by the Department had turned out to be unsatisfactory to some of the Privy Councilors, and presented the text of a different declaration which is objectionable in that it comes close to being a reservation.	247
June 11	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which he advised that the Government had sent the treaty to the Emperor for ratification, that the Emperor will submit it to the Privy Council, and that it is expected that the Privy Council will finish its deliberations between June 20 and 25.	248
June 19 (64)	<i>From the Chargé in Japan (tel.)</i> Receipt from the Prime Minister of the declaration and instrument of ratification accepted by a committee of the Privy Council (texts printed).	248
June 24	<i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister in which he presented a written statement (text printed), concerning a discussion said to have been held in the Japanese Privy Council concerning Japanese interpretation of the right of self-defense when Japan's special interests outside the territory of the Empire should be affected and asked whether the correspondence gave any light on the interpretation of the right of self-defense.	249

JAPAN

DECLARATION BY JAPAN UPON RATIFICATION, ON JUNE 27, 1929, OF THE TREATY FOR THE RENUNCIATION OF WAR—Continued

Date and number	Subject	Page
1929 June 28	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which he brought the announcement of ratification by the Emperor and a copy of the declaration respecting the phraseology "in the names of their respective peoples."	250
July 19	<i>Memorandum by the Assistant Chief of the Division of Far Eastern Affairs</i> Suggestion that the best reply to the Chinese Minister's question regarding the right of self-defense is to refer him to certain illustrative passages in the correspondence and let him draw his own conclusions; memorandum (text printed) listing such passages.	250
July 24 (92)	<i>From the Japanese Ambassador</i> Japanese declaration of June 27 (text printed); request that copies of the Ambassador's letter and the declaration be sent to each of the other high contracting parties.	254
July 24	<i>To the Japanese Ambassador</i> Information that copies of the Ambassador's note and the declaration will be sent to the other high contracting parties, as well as to each of the governments who have adhered or may hereafter adhere. (Footnote: Proclamation of the treaty by the President, July 24.)	255
July 31	<i>To the American Diplomatic Officers Accredited to Governments Which Have Ratified or Which Have Definitely Adhered to the Treaty for the Renunciation of War</i> Transmittal of copies of the Japanese Ambassador's note of July 24 and declaration of June 27, for transmission to the governments to which accredited.	256

OBJECTION BY JAPAN TO VISITS OF AMERICAN NAVAL VESSELS TO UNOPENED PORTS ON ISLANDS UNDER MANDATE TO JAPAN

1929 Apr. 25 (1156)	<i>From the Chargé in Japan</i> Note No. 477, April 12, informing the Foreign Office of the U. S. Navy's desire to order the <i>Asheville</i> to visit certain of the islands under Japanese mandate (text printed); receipt of oral information that the South Seas Bureau would be pleased to have the vessel visit any of the open ports but could not welcome visits to any of the out-of-the-way places because harbor accommodations are limited, no pilots are available, and harbors or anchorages are difficult of approach and sometimes dangerous.	256
Apr. 26 (36)	<i>To the Chargé in Japan (tel.)</i> Instructions to advise the Foreign Office informally that the <i>Asheville</i> will not visit any Japanese-mandated islands.	257
June 19 (56)	<i>To the Chargé in Japan (tel.)</i> Instructions to request permission for U. S. destroyer division to visit the Japanese-mandated islands of Jaluit, Wotje, and Kwajalong en route from Honolulu to the Asiatic station.	258

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OBJECTION BY JAPAN TO VISITS OF AMERICAN NAVAL VESSELS TO UNOPENED PORTS ON ISLANDS UNDER MANDATE TO JAPAN—Continued

Date and number	Subject	Page
1929 June 29 (70)	<i>From the Chargé in Japan (tel.)</i> Information from the Foreign Office that the South Seas Bureau cannot see its way to grant permission for vessels to visit unopened ports, but has no objection to visit to Jaluit.	258
Oct. 23 (630)	<i>To the Chargé in Japan</i> Instructions to endeavor informally and discreetly to bring about modification in the Japanese Government's attitude.	258
Dec. 16 (1366)	<i>From the Chargé in Japan</i> Information from the Vice Minister for Foreign Affairs that objection comes principally from the South Seas Bureau; his observation that if the U. S. Government insisted and raised the legal question of treaty rights, the Japanese Government would have to consider the whole matter from that standpoint, but that the Japanese Government would be greatly obliged if the United States did not do so.	259
Dec. 31 (1386)	<i>From the Chargé in Japan</i> Report of further interview with the Vice Minister for Foreign Affairs in which he advised that the Japanese Navy would raise no objection to visits by American men-of-war to those mandated islands where Japanese officials are resident, and suggested that whenever U. S. men-of-war intend to visit any of the islands the Japanese Government be informed beforehand so that the Navy Department could indicate what islands were open. (Footnote: Information that this procedure was subsequently followed.)	261

INFORMAL REPRESENTATIONS RESPECTING APPARENTLY DISCRIMINATORY FEATURES IN THE JAPANESE LUMBER TARIFF

1929 Mar. 22 (22)	<i>To the Chargé in Japan (tel.)</i> Instructions to advise the Japanese Government that the proposed lumber tariff placing higher rates of duty on woods of American origin than on Siberian products such as kedar and spruce would appear likely to constitute discrimination against American products.	262
Mar. 23 (31)	<i>From the Chargé in Japan (tel.)</i> Memorandum delivered to the Vice Minister for Foreign Affairs (text printed) in accordance with telegram No. 22 of March 22.	262
Apr. 4 (1139)	<i>From the Chargé in Japan</i> Foreign Office note No. 27/C1 of March 30 explaining that the tariff is not designed to constitute any discrimination against American lumber (text printed).	263
Aug. 1 (588)	<i>To the Chargé in Japan</i> Advice that information received through other sources indicates that the tariff is in fact discriminatory against American products; instructions for making further informal representations.	264

JAPAN

INFORMAL REPRESENTATIONS RESPECTING APPARENTLY DISCRIMINATORY FEATURES IN THE JAPANESE LUMBER TARIFF—Continued

Date and number	Subject	Page
1929 Sept. 10 (1274)	<i>From the Chargé in Japan</i> Report of interview with the Foreign Minister on August 30 in which he stated that the tariff question would be reconsidered with a view to submitting certain proposals to the next session of the Diet; information that the Chargé and the Commercial Attaché will continue to keep the matter before the Japanese authorities in an informal manner.	267
Nov. 26 (110)	<i>From the Chargé in Japan (tel.)</i> Request by the Vice Minister for Foreign Affairs for formal note setting forth the American position; the Chargé's plan to send such a note based on instruction No. 588 of August 1 and referring to conversation of August 30.	268
Nov. 27 (120)	<i>To the Chargé in Japan (tel.)</i> Approval of proposed action. (Footnote: Report by the Chargé in despatch No. 165, March 17, 1931, that on March 12 the Japanese Government proposed revision of the lumber tariff by increase in Siberian and Asiatic mainland import duties; information that the Diet subsequently passed the proposal.)	268

LATVIA

REPRESENTATIONS AGAINST THE APPLICATION OF A RESIDENCE OR SOJOURN TAX TO AMERICAN CITIZENS IN LATVIA

1929 Jan. 21 (5840)	<i>From the Minister in Latvia</i> Request for authorization to send a note to the Foreign Office requesting removal of residence or sojourn tax on Americans in Latvia on the basis of reciprocity alone, in view of difference in U. S. and Latvian interpretations of the applicability of paragraph 2, article I, of the treaty of April 20, 1928.	269
Feb. 12 (598)	<i>To the Minister in Latvia</i> Instructions to explain U. S. interpretation of the pertinent portions of article I of the treaty; authorization, if it is deemed advisable, to advise the Foreign Office by note that Latvian nationals are not required to pay a sojourn tax in the United States and to request that American nationals in Latvia be relieved of payment of the tax.	270
June 4 (6191)	<i>From the Minister in Latvia</i> Information that in reply to the Legation's note of February 27, the Foreign Office stated that beginning July 1, a fee of lats 10.00 per year for the permit of sojourn in Latvia of American citizens will replace the previous sojourn tax.	272
Sept. 24 (671)	<i>To the Minister in Latvia</i> Instructions to renew request for exemption of American nationals from the sojourn tax; observation that in any case American nationals should not be compelled to pay tax any larger than the nationals of the nation most favored by Latvia in this respect.	272

LIBERIA

APPOINTMENT OF THE INTERNATIONAL COMMISSION OF INQUIRY INTO THE
EXISTENCE OF SLAVERY AND FORCED LABOR IN THE REPUBLIC OF LIBERIA

Date and number	Subject	Page
1929 June 5 (5)	<p><i>To the Minister in Liberia (tel.)</i></p> <p>Note for the Liberian Government (text printed) emphasizing the importance of prompt ratification and enforcement of the international slavery convention signed at Geneva in 1926, alteration or change in the interpretation of the Liberian-Spanish agreement of 1914 regarding the recruitment of laborers for Fernando Po, rigorous investigation of forced labor conditions throughout Liberia, drastic reform and reorganization of the frontier force and of the administration of labor and of the interior, and punishment of all persons who may have aided in the development of forced labor conditions so closely resembling slavery.</p>	274
June 5 (15)	<p><i>From the Minister in Liberia (tel.)</i></p> <p>Request for immediate instructions or comment on report that Barber Line agent at Cape Palmas is booking 100 natives for Libreville.</p>	276
June 7 (7)	<p><i>To the Minister in Liberia (tel.)</i></p> <p>Instructions, if satisfied that the laborers are being exported under compulsion, to advise the Liberian Government that such shipment would violate the Act of Brussels of 1890 and the slavery convention of 1926 and to urge that appropriate measures be taken to prevent such violation; also, to advise the Barber Line representative in Monrovia similarly, informing him that all measures will be invoked to prevent the use of the American flag in the transportation of forced labor.</p>	276
June 8 (8)	<p><i>To the Minister in Liberia (tel.)</i></p> <p>Intention, if the shipment is made, to consider possibility of initiating criminal proceedings under the U. S. Criminal Code.</p>	276
June 11 (17)	<p><i>From the Minister in Liberia (tel.)</i></p> <p>Delivery, June 10, of the note contained in telegram No. 5 of June 5; oral reply by Secretary of State Barclay to the effect that the charges will be investigated but that investigation may be difficult because no specific instance is charged.</p>	277
June 13 (18)	<p><i>From the Minister in Liberia (tel.)</i></p> <p>Note from Secretary Barclay, June 11 (text printed), denying the existence of such labor conditions as charged, and declaring nonobjection to investigation by a commission.</p>	277
June 15 (9)	<p><i>To the Minister in Liberia (tel.)</i></p> <p>Note for the Liberian Government (text printed) suggesting appointment of an impartial commission of investigation consisting of Liberians and non-Liberians and stating U. S. willingness to cooperate with such a commission.</p>	281
June 18 (19)	<p><i>From the Minister in Liberia (tel.)</i></p> <p>Information that none of the action authorized in telegram No. 7 of June 7 has been taken with the Government, but that the Barber Line representative has radioed instructions to stop captains from transporting laborers destined for Fernando Po and Libreville and has advised his principals at New York City.</p>	281
June 19 (10)	<p><i>To the Minister in Liberia (tel.)</i></p> <p>Approval of course of action.</p>	282

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1929 June 19 (572)	<i>To the Ambassador in Spain</i> Information concerning U. S. notes to the Liberian Government with respect to labor abuses; instructions to explain the situation to the Foreign Office, expressing hope that the Spanish Government will cooperate in the prevention of continuance of any conditions such as have been reported in connection with the export of labor from Liberia to Fernando Po.	282
June 20 (20)	<i>From the Minister in Liberia (tel.)</i> Information that action on telegram No. 9 of June 15 has been withheld; opinion that a commission's findings would be thwarted by any Liberian members thereon; request for further instructions.	283
June 22 (12)	<i>To the Minister in Liberia (tel.)</i> Approval of withholding action on telegram No. 9 of June 15; substitution of a new note for the Liberian Government (text printed), suggesting that the proposed commission of investigation consist of one Liberian, one American, and one European.	283
June 22 (13)	<i>To the Minister in Liberia (tel.)</i> Information that it was suggested to a representative of the Barber Line that agent at Monrovia confer with the American Minister for the purpose of working out some effective means of distinguishing between legitimate shipments of voluntary laborers and shipments of forced labor.	284
June 28 (25)	<i>From the Third Secretary of Legation in Liberia (tel.)</i> Advice that early reply is expected to note delivered June 26 in compliance with telegram No. 12 of June 22.	285
July 4 (30)	<i>From the Third Secretary of Legation in Liberia (tel.)</i> Liberian reply dated July 2 (text printed), stating acceptance of suggestion as to the composition of a commission, intention to forward the terms of reference for comment, and plan to request the United States and the Secretariat of the League of Nations to recommend one representative each.	286
July 11 (33)	<i>From the Third Secretary of Legation in Liberia (tel.)</i> Information from Barber Line representative that he has received no instructions from his principals and that there have been no shipments on his vessels since May 14.	286
July 12 (16)	<i>To the Minister in Liberia (tel.)</i> Note for the Liberian Government (text printed), suggesting that the terms of reference confer the broadest possible powers on the commission.	287
July 23 (25)	<i>To the Chargé in Liberia (tel.)</i> Instructions to present the note contained in telegram No. 16 of July 12 with revisions (text printed) necessitated by the recent death of the American Minister.	288
July 24	<i>From the Chargé in Liberia (tel.)</i> Information that note has been presented; receipt of Liberian note of July 18 containing terms of reference (text printed), requesting comments thereon, and stating that each party on the Commission is to pay expenses of its member.	289

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1929 July 24	<i>From the Chargé in Liberia (tel.)</i> Confidential observations on the terms of reference. Understanding that on July 19 Vice President Yancy radioed his agent at Cape Palmas that he had seen President King and that it was all right to ship the laborers, believed to number 200, at £10 sterling each, to be sent to the Congo.	290
July 25	<i>From the Chargé in Liberia (tel.)</i> Advice that the Liberian Secretary of State agrees that the U. S. Government announce that the Liberian Government is appointing a commission of investigation; his intention to make announcement also.	291
July 26 (27)	<i>To the Chargé in Liberia (tel.)</i> Request for further information concerning section 2 of the terms of reference.	291
July 26 (28)	<i>To the Chargé in Liberia (tel.)</i> Instructions to advise President King that the Department would regard in a most serious light the export of laborers at this time, and to suggest the advisability of taking steps to prevent shipments.	291
July 26	<i>From the Chargé in Liberia (tel.)</i> Further comments on the terms of reference; reported information concerning activities of the former French Chargé, now employed by the Firestone interests at Cape Palmas.	292
July 28	<i>From the Spanish Embassy</i> Desire that a Spanish member be appointed on commission.	292
Aug. 1	<i>From the Chargé in Liberia (tel.)</i> Information concerning reported charges of recruitment of laborers for Firestone at Cape Palmas. Desire of President King that no Garvey man or U. S. Negro Improvement Association sympathizer be selected as American member of commission; his consideration of ex-President Arthur Barclay as Liberian member.	293
Aug. 3 (29)	<i>To the Chargé in Liberia (tel.)</i> Instructions to advise the Liberian Government that the proposed terms of reference appear most generous in principle but that certain clarifying changes are needed; belief that the Liberian Government should make the original announcement concerning the commission; willingness of the Department to defray expenses of the American member and to urge the League to do likewise.	293
Aug. 3 (37)	<i>From the Chargé in Liberia (tel.)</i> Declaration by Firestone manager that the charges contained in Legation's telegram of July 26 are unfounded and that he would welcome investigation of the conditions of Firestone labor.	295
Aug. 9 (39)	<i>From the Chargé in Liberia (tel.)</i> Delivery of note in accordance with telegram No. 29 of August 3; information that Secretary Barclay officially announces for publication by the Department that the Liberian Government is appointing a commission.	295

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1929 Aug. 12 (83)	<i>To the Minister in Switzerland (tel.)</i> Statement to the press, August 9, concerning Liberian appointment of a commission (text printed). Instructions to ascertain whether, upon Liberian request, the League will appoint a member and pay his expenses. (Footnote: Repetition of press statement to the Chargé in Liberia as telegram No. 30.)	296
Aug. 14	<i>From the Liberian Consul General at Baltimore</i> Announcement that the Liberian Government is determined to go to very bottom of charges that slavery and forced labor conditions exist in Liberia and is appointing an international commission of investigation.	297
Aug. 14 (40)	<i>From the Chargé in Liberia (tel.)</i> Desire of the Liberian Government that certain alterations be made in the Department's suggestions for rewording the terms of reference; understanding that Liberia hopes to have a Spaniard named by the League of Nations.	297
Aug. 16 (32)	<i>To the Chargé in Liberia (tel.)</i> Further suggestions for wording the terms of reference; information that the Minister in Switzerland has been authorized to advise the Secretary General that the selection of a Spaniard would be highly inappropriate.	298
Aug. 17 (61)	<i>From the Minister in Switzerland (tel.)</i> Conversation with the Secretary General in which he advised that the League would undoubtedly be glad to appoint a member on the commission, if so requested by Liberia, but could not undertake to pay the expenses; his desire for the Department's views on the kind of person and nationality to be selected.	299
Aug. 22	<i>To the Liberian Consul General at Baltimore</i> Advice that the American Legation at Monrovia has already indicated willingness of the U. S. Government to cooperate with an international commission.	300
Aug. 22 (41)	<i>From the Chargé in Liberia (tel.)</i> Reaction of Secretary Barclay to the note of August 21 with set forth Department's suggestions concerning the terms of reference contained in telegram No. 32 of August 16.	300
Aug. 22 (42)	<i>From the Chargé in Liberia (tel.)</i> Supplementary comments on conversation with Secretary Barclay concerning the terms of reference.	301
Aug. 27 (44)	<i>From the Chargé in Liberia (tel.)</i> Further conversation with Secretary Barclay concerning shipments of laborers to Fernando Po and the terms of reference; advice that the Liberian Government is awaiting reply to Legation's telegram No. 41 of August 22.	302
Aug. 27	<i>From the American Chargé in Liberia to the Liberian Secretary of State</i> Confirmation of conversation of August 27.	302

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Aug. 28 (33)	<i>To the Chargé in Liberia (tel.)</i> Further comments which should complete the terms of reference.	305
Sept. 7 (45)	<i>From the Chargé in Liberia (tel.)</i> Receipt of official information that the terms of reference have been completed, and of request that U. S. Government recommend member of the commission; information that request was made to the League direct.	306
Sept. 7 (46)	<i>From the Chargé in Liberia (tel.)</i> Liberian note, September 4 (excerpt printed), requesting the U. S. Government to nominate an American citizen for appointment on the commission; receipt of further note, September 7, confirming form and contents of the terms of reference and advising that request was made to the League on September 6.	306
Sept. 11 (105)	<i>To the Minister in Switzerland (tel.)</i> Terms of reference (text printed); information that the U. S. Government is unable to defray the expenses of the League member or to urge Liberia to do so; advice that Department has no national preference but believes League's nominee should not be a national of a country likely to import labor from Liberia.	307
Sept. 14 (81)	<i>From the Minister in Switzerland (tel.)</i> Information that Liberian representative has not yet asked the League to nominate a member for the commission; reiteration by the Secretary General of request for intimation of the kind of man the Department expects to nominate, in order to be able to choose someone of like authority and complementary attributes.	309
Sept. 20 (88)	<i>From the Minister in Switzerland (tel.)</i> Receipt from the Secretary General of copy of the Liberian representative's request that the League appoint a member on the commission and itself pay the expenses.	310
Sept. 21 (50)	<i>From the Chargé in Liberia (tel.)</i> Information that the Liberian representative at Geneva has advised Secretary Barclay that the representatives of Belgium, France, Portugal, and Spain desire no investigation into conditions of compulsory labor for public works in Liberia, fearing that similar investigations may follow in their colonies; also, that matter has been submitted to the League Council.	310
Sept. 24 (114)	<i>To the Minister in Switzerland (tel.)</i> Transmittal of text of telegram No. 50 of September 21, from the Chargé in Liberia; authorization to advise the Secretary General that by the terms of reference Liberia has demanded an inquiry into compulsory labor for public purposes as well as private, and that there should be no objection to granting Liberia's request. Information that American member has not yet been selected.	311

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Dec. 7 (139)	<i>To the Minister in Switzerland (tel.)</i> Transmittal of text of telegram No. 53 sent to the Chargé in Liberia; instructions to inform the Secretary General; desire to have the name and biographic data of the League's nominee.	316
Dec. 17 (75)	<i>From the Chargé in Liberia (tel.)</i> Information that Liberia has no objection to the American nominee and that ex-President Arthur Barclay will be the Liberian Commissioner. (Footnote: Appointment by the League of Dr. Cuthbert Cristy, British African explorer and expert on tropical medicine, and constitution of the Commission at Monrovia on April 7, 1930.)	316

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APPOINTMENT OF DR. HOWARD F. SMITH OF THE UNITED STATES PUBLIC HEALTH SERVICE AS CHIEF MEDICAL ADVISER TO THE REPUBLIC OF LIBERIA

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July 3 (368)	<p><i>From the British Ambassador</i></p> <p>Suggestion that the American diplomatic representative in Monrovia be instructed to cooperate with the British Chargé in an effort to induce the Liberian Government to take suitable measures to improve the sanitary conditions; information that a similar suggestion has been submitted to the French Government.</p>	317
July 9 (15)	<p><i>To the Minister in Liberia (tel.)</i></p> <p>Instructions to suggest that the Liberian Government appoint a competent sanitary engineer to clear up the yellow fever situation; to advise the Government that the Department is prepared to locate such a person upon request, and in the event Liberia cannot pay the entire cost, to state that the Advisory Committee on Liberian Education would contribute half of the amount required for the first year if the total expense does not exceed \$15,000; instructions also to consult the British and French representatives so that all may work harmoniously in discussions with the Liberian Government.</p>	318
July 11 (228)	<p><i>To the Chargé in France (tel.)</i></p> <p>Instructions to indicate to the French Government that the U. S. Government is in accord with British suggestion for impressing on the Liberian Government the necessity for improving health conditions in Monrovia; information concerning instructions to the Minister in Liberia.</p>	319
July 12	<p><i>To the British Ambassador</i></p> <p>Information concerning the instructions sent to American representatives at Monrovia and Paris.</p>	319
July 12 (34)	<p><i>From the Third Secretary of Legation in Liberia (tel.)</i></p> <p>Advice that the British Chargé has not received instructions. Concurrence of the British Chargé, the American Financial Adviser, and the Third Secretary of Legation in recommending that Rockefeller Foundation yellow fever and sanitation expert be sent from Lagos to advise the Government. Inquiry whether to follow Department's telegram No. 15 of July 9.</p>	320
July 13 (18)	<p><i>To the Minister in Liberia (tel.)</i></p> <p>Information that Department is communicating with the Rockefeller Foundation; authorization to act upon telegram No. 15 of July 9 if it seems desirable.</p>	321
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July 24 (26)	<i>To the Chargé in Liberia (tel.)</i> Advice from Rockefeller Foundation that its commission in Lagos has been authorized to send an expert to Monrovia upon Liberian request.	322
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Sept. 17 (34)	<i>To the Chargé in Liberia (tel.)</i> Information that the appointment of a Public Health Service officer may be delayed; authorization to urge the Liberian Government to avail itself meanwhile of the Rockefeller Foundation's offer to send an expert from Lagos.	323
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Dec. 23	<i>From the Chargé in Liberia (tel.)</i> Information that the alternate proposal for article 3 has been submitted and that the Liberian Government will agree if a change in wording is acceptable.	329
Dec. 27 (57)	<i>To the Chargé in Liberia (tel.)</i> Acceptance of Liberian change in form of article 3; advice that Dr. Smith will sail for Monrovia from Rotterdam on January 3. (Footnote: Information that Dr. Smith arrived at Monrovia on January 20, 1930, and that his appointment had been approved by President Hoover on December 5, 1929.)	329

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TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND LUXEMBURG, SIGNED APRIL 6, 1929

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1929 Apr. 6	<i>Treaty Between the United States of America and Luxemburg</i> Of arbitration.	331
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MEXICO

THE INSURRECTION IN MEXICO

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Feb. 16 (26)	<i>To the Ambassador in Mexico (tel.)</i> Information that the issuance of export licenses will be expedited, that the Navy Department will permit the manufacturer to give preference to Mexican order for Corsair airplanes, and that machine guns and bombs must be obtained through the War Department.	337
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Mar. 3 (46)	<i>From the Ambassador in Mexico (tel.)</i> Information that the garrison at Vera Cruz has risen and that there is an uprising in Sonora; also, that the Government has closed the ports of Vera Cruz and Nogales to prevent entry of arms and munitions.	338
Mar. 3	<i>Plan of Hermosillo</i> Repudiating Emilio Portes Gil as Provisional President and empowering José Gonzalo Escobar, chief of the revolutionary movement, to take all military measures necessary to the success of the movement. (Footnote: Signed at Hermosillo, Sonora, by a large number of revolutionary leaders.)	339
Mar. 4	<i>From the Mexican Ambassador</i> Notification that the customhouses at Nogales and Agua Prieta, Sonora, and the port of Vera Cruz have been closed on account of rebellion of the military garrisons.	340
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Mar. 10	<i>From the Consul at Ciudad Juarez (tel.)</i> Verification of death of two Americans and injuries to another from bullets fired during the battle of March 8; report that 37 Federal officers, 267 men, and 63 women and children are being well cared for at Fort Bliss.	357
Mar. 11 (1382)	<i>From the Mexican Ambassador</i> Request that the appropriate authority be instructed to deny application of the Cananea Consolidated Copper Co. for export license covering a carload of dynamite because the territory in which the company operates is under rebel control.	357
Mar. 11	<i>To the Consul at Chihuahua (tel.)</i> Request to be informed what was meant by General Moseley's "warning" to the Governor of Chihuahua and upon whom it "made a very bad impression."	358
Mar. 12	<i>Memorandum by the Under Secretary of State</i> Conversation with the Mexican Ambassador in which he presented a memorandum concerning the activities of rebel agents in the United States, and expressed satisfaction with emergency arrangement for permitting the Cananea Co. to import a week's supply of explosives at a time.	358
Mar. 12	<i>From the Attorney General</i> Issuance of instructions to representatives of the Justice Department in accordance with request of March 6.	359
Mar. 12 (1430)	<i>From the Mexican Ambassador</i> Request for assistance in obtaining permission for the volunteers who crossed the border with Federal troops and are now detained at Fort Bliss to return to Mexico or to reside at El Paso, Texas, until the Government has retaken Ciudad Juarez.	359
Mar. 12 (124)	<i>To the Ambassador in Mexico (tel.)</i> General Lassiter's report quoting General Moseley's report of the circumstances under which the Mexican troops took refuge in El Paso (texts printed); instructions to ascertain whether the Government is willing that the troops and their families remain at Fort Bliss at Mexican expense, which the President would prefer, or if not, that they reenter Mexico at Eagle Pass on parole not to engage in military service in the Federal Army during the existing revolution.	360
Mar. 12 (110)	<i>From the Ambassador in Mexico (tel.)</i> Information that the Mexican Government has now authorized its consul at Naco to clear shipments to the Cananea mine and has authorized the Southern Pacific Railroad to move the early vegetable crop from Sonora provided the purchase money remains in the United States.	362

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1929 Mar. 13	<p><i>From the Consul at Ciudad Juarez (tel.)</i> From the Consul at Chihuahua: Publication in local papers of telegrams exchanged between General Moseley and the Governor of Chihuahua in which General Moseley warned the Governor of his responsibility for damages to life and property in the United States resulting from the expected attack of revolutionary forces on Ciudad Juarez; advice that many Americans and Mexicans openly expressed dissatisfaction with the warning in the manner in which made.</p>	362
Mar. 14	<p><i>Memorandum by the Chief of the Division of Mexican Affairs</i> Conversation with a representative of the Mexican Embassy in which he stated that U. S. customs officials were prohibiting exportation of food supplies and other nonmilitary material to Federal troops at Naco. Information that the customs officer at Naco is being instructed to permit the exportation.</p>	363
Mar. 14	<p><i>From the Consul at Nogales (tel.)</i> From the Consul at Guaymas: Inquiry whether the Department would object to the exportation of fuel oil for American-owned Mexican company operating light and water works in Sonora and Sinaloa providing suitable arrangements are made with the Government, the revolutionists, and the transportation companies.</p>	363
Mar. 14	<p><i>To the Consul at Nogales (tel.)</i> Instructions to take special precautions before issuing visas to persons promoting or assisting in the promotion of the uprising with a view to determining whether they are coming to the United States for bona fide purposes or primarily to foment or assist in fomenting the revolution from a place of security; also to determine in each case whether applicant is entitled to be classified as an immigrant according to provisions of section 3 of the act of 1924 and whether he is subject to exclusion upon the ground that he is likely to become a public charge or is otherwise subject to exclusion.</p>	363
Mar. 14 (117)	<p><i>From the Ambassador in Mexico (tel.)</i> Advice that the Mexican Government is studying the two alternatives set forth in telegram No. 124 of March 12.</p>	364
Mar. 15	<p><i>To the Consuls at Agua Prieta, Ciudad Juarez, Matamoros, Mexicali, Piedras Negras, and Nuevo Laredo (cir. tel.)</i> Transmittal of text of the telegram sent to the Consul at Nogales, March 14, respecting immigration visas, with instructions to follow the same course.</p>	364
Mar. 16 (159)	<p><i>To the Ambassador in Mexico (tel.)</i> Information from the Southern Pacific Railroad that American shippers of vegetables from Sonora are unable to comply with Mexican stipulation that money received from the sale of products and deposited in American banks must not be withdrawn until the legal Government is entirely in control of Sonora and Sinaloa; authorization to take any action that may be deemed advisable.</p>	365

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1929 Mar. 16 (160)	<i>To the Ambassador in Mexico (tel.)</i> Telegram from the Consul at Chihuahua, March 14, reporting that many Mexicans suggest that the American Ambassador offer good offices to mediate between the Mexican Government and revolutionists, and Department's reply instructing Consul to refrain from discussing the question with anyone (texts printed).	366
Mar. 16	<i>To the Consul at Nogales (tel.)</i> For the Consul at Guaymas: Nonobjection to exportation of fuel oil to Mexico as outlined in telegram from Nogales, March 14.	366
Mar. 16	<i>Memorandum by the Under Secretary of State</i> Conversation with the Mexican Ambassador concerning the troops detained in El Paso, in which the Under Secretary agreed to recommend that consideration be given to the Ambassador's suggestion that the volunteers be released and be permitted to return to their homes.	366
Mar. 18 (129)	<i>From the Ambassador in Mexico (tel.)</i> Satisfactory modification by Mexican officials and Southern Pacific officials of the conditions for shipping vegetables from Sonora so as to permit withdrawal of funds, on approval of the Mexican Consul at Nogales, for payment of labor in Mexico and obligations in the United States.	367
Mar. 21 (185)	<i>To the Ambassador in Mexico (tel.)</i> Information that the Treasury Department has instructed the customs officials along the border to detain temporarily all gold and silver specie exported from Mexico into the United States by rebels. (Footnote: Telegraphic instructions to the consular officers at Nogales, Ciudad Juarez, and Agua Prieta, April 1, to notify the Department, U. S. customs officials, and Mexican consular representatives on the border of any proposed shipments to the United States of gold or silver specie by persons not authorized by the Mexican Government.)	368
Mar. 21	<i>To Consular Officers in Mexico (cir. tel.)</i> Statement to the press, March 19 (text printed), declaring that neither the Department of State nor any of its representatives has undertaken any mediation between the Mexican Government and the rebels.	368
Mar. 22 (188)	<i>To the Ambassador in Mexico (tel.)</i> Inability to make any recommendation to the President concerning disposition of the Mexican troops detained at Fort Bliss until Mexican decision concerning the alternatives set forth in telegram No. 124 of March 12 has been received.	369
Mar. 23 (153)	<i>From the Ambassador in Mexico (tel.)</i> Recommendation that destroyer now en route to Manzanillo be ordered to proceed direct to Mazatlan.	369
Mar. 24	<i>From the Consul at Nogales (tel.)</i> Desire for instructions with regard to requests for intervention with rebel army leaders received from American shareholders in Mexican companies because of forced loans and requisition of properties.	370

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1929 Mar. 25 (201)	<i>To the Ambassador in Mexico (tel.)</i> Advice that the destroyer <i>Robert Smith</i> has been ordered to proceed to Mazatlan, instead of to Manzanillo, to furnish refuge for Americans and foreigners. Instructions to inform Mazatlan.	370
Mar. 26	<i>From the Consul at Nogales (tel.)</i> Specific cases of forced loans and requisitions by rebel leaders.	370
Mar. 27	<i>To the Mexican Ambassador</i> Information that the appropriate authorities have been notified of the Ambassador's request for prevention of exportation of certain horses bought by the rebels from a ranch in Texas.	371
Mar. 27	<i>From the Consul at Mazatlan (tel.)</i> Advice that the rebels are in full retreat, and that destroyer is not needed now that the Federals are in full control.	371
Mar. 27 (165)	<i>From the Ambassador in Mexico (tel.)</i> Renewed discussion with the Acting Foreign Minister concerning disposition of the Mexican troops detained at Fort Bliss.	372
Mar. 28	<i>From the Consul at Mazatlan (tel.)</i> Departure of the <i>Robert Smith</i> , March 27, for Tobari Bay.	372
Mar. 29 (217)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to the Consul at Guaymas (text printed) to make informal representations to the <i>de facto</i> authorities for protection of American life, property, and interests. Instructions to the Consul at Nogales, for repetition to Guaymas (text printed), to advise Americans paying taxes to <i>de facto</i> authorities to do so under protest; instructions also to protest orally to the <i>de facto</i> authorities against the taxation. Information that these instructions are being repeated to all Consuls in the disturbed areas; instructions to bring both matters to the attention of the Mexican Government, advising that the U. S. Government will regard all such payments as completely relieving American citizens from any further obligation with regard to such payment. (Footnote: Communication of the foregoing to the Mexican Foreign Office by note, April 1.)	373
Mar. 29	<i>To the Mexican Ambassador</i> Inability of the Governor of Arizona to comply with the Ambassador's request that the Arizona bank in which rebel authorities deposited certain funds be asked to deliver such funds to the Mexican Consul or to have such funds attached.	374
Mar. 30	<i>From Señor Gerzayn Ugarte</i> Notification of his appointment by General Escobar as High Commissioner to represent the interests of the revolution near the U. S. Government; declaration of the purposes of the revolution; assurance that American lives and interests will continue to receive ample protection from the revolutionary forces.	375
Apr. 1	<i>From the Consul at Ciudad Juarez (tel.)</i> Understanding that three airplanes purchased by the rebels crossed to Mexico from El Paso with American pilots; also, that much ammunition and materials are crossing to Mexico.	376

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1929 Apr. 1	<i>To the Mexican Ambassador</i> Advice that, in accordance with a request by the Ambassador, the Agriculture and Treasury Departments have instructed their representatives at El Paso to permit residents of Naco, Sonora, to import 500 cattle to Naco, Arizona, for a temporary period.	377
Apr. 1 (1868)	<i>From the Mexican Ambassador</i> Request that coal, gasoline, petroleum, and other fuels be considered contraband of war and that free exportation thereof be prevented.	377
Apr. 1 (225)	<i>To the Ambassador in Mexico (tel.)</i> Telegram to the Vice Consul at Agua Prieta (text printed) instructing him to be guided by telegram of March 29 with respect to attorneys' request that matter of payment of taxes to <i>de facto</i> authorities by their clients be taken up with the Mexican Government.	378
Apr. 2	<i>Memorandum by the Under Secretary of State</i> Telephone conversation with the Mexican Ambassador in which he expressed regret that the American town of Naco had been bombed by a rebel airplane with resulting injury to American citizens.	378
Apr. 2	<i>To the Secretary of War</i> Desire that telegraphic instructions be issued to Army authorities to release all Mexicans held at Fort Bliss to the custody of the Mexican Consul General at El Paso and to retain their arms and ammunition, in accordance with the President's directions conveyed in Cabinet meeting.	379
Apr. 2	<i>To the Consul at Nogales (tel.)</i> Instructions to wire facts concerning injury to an American citizen in rebel bombing of Naco, Arizona. (Similar telegram to Agua Prieta.)	379
Apr. 2	<i>From the Vice Consul at Agua Prieta (tel.)</i> Information concerning damage to property in Naco, Arizona, and slight wound sustained by Mr. Harry Baker of Alliance, Ohio; advice that General Cocheu, commanding American troops in Arizona, warned General Topete that such acts would not be countenanced, and that the latter expressed regret and directed that damages be settled promptly.	380
Apr. 2	<i>From the Consul at Nogales (tel.)</i> Lack of any information regarding wounding of Mr. Baker further than that contained in press despatch.	380
Apr. 3	<i>From the Consul at Nogales (tel.)</i> From the Consul at Guaymas, April 2: Seizure by revolutionary forces of gasoline and lubricants belonging to the California Standard Oil Co.; advice that protest has been made to collector of customs.	380
Apr. 3	<i>From the Consul at Ciudad Juarez (tel.)</i> Receipt of assurances from the <i>de facto</i> authorities concerning representations by the Consul in accordance with instructions contained in Department's telegram of March 29.	381

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1929 Apr. 3	<i>To the Mexican Ambassador</i> Suggestion that the Mexican Consul General at El Paso be instructed to communicate with the commanding general at Fort Bliss to arrange details for the release of refugee troops to the Consul General.	381
Apr. 3	<i>To the Vice Consul at Agua Prieta (tel.)</i> Instructions to exercise caution so that no action on part of the Vice Consul may be construed as recognizing the belligerency of rebel forces.	382
Apr. 4 (233)	<i>To the Ambassador in Mexico (tel.)</i> Statement to the press, April 3 (text printed), in which the Secretary of State warned that the U. S. Government could not protect American citizens who enlist in the rebel forces from the fate of traitors; instructions to call this announcement to attention of the Mexican Government, expressing the hope, however, that it will not consider any such person taken prisoner as guilty of treason, and to inquire whether or not any Americans are in the Federal Army.	383
Apr. 4	<i>From the Vice Consul at Agua Prieta (tel.)</i> Information that rebel airplanes continue to bomb Naco; that two more bombs have fallen within American territory without damage; and that General Topete has again apologized to U. S. authorities.	384
Apr. 5	<i>To the Mexican Ambassador</i> Advice that a Mexican Federal officer and ten soldiers arrested in Naco, Arizona, on April 3, will be relieved of their arms and turned back to Mexican territory; request that patrols remain on Mexican side of the border and that soldiers entering the United States for legitimate purposes come unarmed.	384
Apr. 5 (187)	<i>From the Ambassador in Mexico (tel.)</i> Assurance by the Mexican President that any Americans who should be captured with the rebels will be treated with all consideration.	385
Apr. 5	<i>From the Consul at Nogales (tel.)</i> Opinion that the order issued by the District Director's office at El Paso to the immigration office at Nogales to hold a board of inquiry to examine and exclude all civil and military officers of the revolution and their families, will result in unfavorable reaction to Americans and their interests in rebel territory.	386
Apr. 6	<i>From the Consul at Nogales (tel.)</i> From the Vice Consul at Ciudad Obregon, April 5: Report of rebel military activities; advice that arrangements have been made with the commander of the <i>Robert Smith</i> for protection of American lives in case of necessity.	386
Apr. 6 (188)	<i>From the Ambassador in Mexico (tel.)</i> Advice that the Federal Government has issued instructions to accept no enlistments of Americans.	387

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1929 Apr. 6	<i>To the Consul at Nogales (tel.)</i> Information that no instructions have been issued by the Labor Department for a board of inquiry; that the responsibility of granting or refusing applications for immigration visas rests upon American consular officers; and that Department's telegram of March 14 instructed the Consul in a sense that would require a strict enforcement of the Immigration Act.	387
Apr. 8	<i>From the Vice Consul at Agua Prieta (tel.)</i> Nonresumption of fighting at Naco. Settlement of claim of Mr. Baker.	388
Apr. 8 (55639/ 550)	<i>From the Assistant Secretary of Labor</i> Information that the District Director of Immigration at El Paso had issued oral instructions that rebel officers, soldiers, civilian officials or their dependent families might be paroled upon claims of jeopardy if not wanted by U. S. Army or Justice Department authorities; advice that he has now been instructed to handle rebels seeking to come to the American side on legitimate business as other applicants of the kind are handled.	388
Apr. 8 (253)	<i>To the Ambassador in Mexico (tel.)</i> Receipt of advice from the Consul at Monterrey that hospital supplies and nurses are urgently needed to take care of wounded soldiers; willingness of the American Red Cross to furnish hospital supplies upon request; instructions to ascertain decision of the Government.	389
Apr. 8	<i>From the Consul at Nogales (tel.)</i> Information that the District Director of Immigration has conceded modification of the blanket exclusion order and will now permit each case to be decided on its merits.	389
Apr. 9	<i>From the Consul at Nogales (tel.)</i> From the Consul at Guaymas: Arrival of the <i>Robert Smith</i> .	390
Apr. 9	<i>From the Consul at Ciudad Juarez (tel.)</i> Arrival of the Federals at the outskirts of Juarez; probability that the city will turn over peacefully as soon as the rebel general leaves.	390
Apr. 9 (196)	<i>From the Ambassador in Mexico (tel.)</i> Information that the President expressed appreciation for the offer of aid at Monterrey but stated that adequate hospital preparations had been made in advance.	391
Apr. 10	<i>To the Consul at Nogales (tel.)</i> To the Consul at Guaymas: Instructions to impress again upon rebel authorities the principles set out in Department's telegram of March 29.	391
Apr. 11	<i>From the Consul at Nogales (tel.)</i> From the Consul at Guaymas: Fear of certain businessmen and Catholics of violence at the hands of Federals when they arrive; suggestion that a good effect might be produced by an official statement by the Mexican Government that full guarantees will be granted all innocent persons, particularly priests and nuns.	391

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1929 Apr. 12	<p><i>To the Secretary of Labor</i></p> <p>Information that the President's directions at the Cabinet meeting on March 15 were that all rebels coming to the United States were to be arrested and detained by the Justice Department, or if necessary, by the Army; suggestion that instructions to the representatives of the Labor Department be amended so that they may be consistent with the instructions issued to representatives of the other Executive departments.</p>	392
Apr. 12	<p><i>From the Consul at Chihuahua (tel.)</i></p> <p>Issuance by the Federal tax office of ultimatum that it does not recognize payment of taxes made to rebels and that taxpayers will be fined unless payments are made within a short period; request for instructions.</p>	393
Apr. 13	<p><i>To the Secretary of War</i></p> <p>Request that Army authorities be instructed to release two Federal aviators and their airplanes detained at Fort Bliss upon landing there from Mexican territory.</p> <p>(Footnote: Information from the Secretary of War, April 15, that the necessary instructions had been issued.)</p>	393
Apr. 13	<p><i>To the Mexican Ambassador</i></p> <p>Information that the appropriate authorities have been requested to prevent the importation of cattle stolen by the rebels from Mexican owners.</p>	394
Apr. 13	<p><i>From the Consul at Nogales (tel.)</i></p> <p>From the Consul at Guaymas: Information that the Southern Pacific Railroad has suspended operations, creating a dangerous situation, and that 6,000 rebel troops are south-bound, presumably for Guaymas or farther south; need for a destroyer at Guaymas at once.</p>	394
Apr. 14	<p><i>From the Consul at Chihuahua (tel.)</i></p> <p>Publication by the State treasurer of notification declaring void all taxes paid from March 3 and demanding that they be paid again immediately.</p>	395
Apr. 15 (2180)	<p><i>From the Mexican Ambassador</i></p> <p>Advice that the necessary orders will be given to prevent Mexican soldiers from crossing the border in the future.</p>	395
Apr. 15	<p><i>To the Consul at Chihuahua (tel.)</i></p> <p>Information that the Consul's telegram of April 12 is being repeated to the Embassy with instructions to advise Americans not to pay except under protest and to demand receipts.</p> <p>(Footnote: Information that the Embassy was instructed by telegram No. 288, April 15.)</p>	396
Apr. 16	<p><i>From the Consul at Ciudad Juarez (tel.)</i></p> <p>Request for instructions as to how to advise Americans now being ordered by Federal authorities to repay taxes previously paid to rebel authorities.</p>	396
Apr. 16 (210)	<p><i>From the Ambassador in Mexico (tel.)</i></p> <p>Delivery to the Foreign Minister of formal note in accordance with telegram No. 288 of April 15.</p>	396

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1929 Apr. 17	<i>To the Consul at Ciudad Juarez (tel.)</i> Information that Consul's telegram of April 16 is being repeated to the Embassy with instructions to request that Federal authorities be directed not to insist on payment of taxes already paid by Americans to <i>de facto</i> authorities; instructions to advise American citizens not to pay except under protest and to demand receipts.	396
Apr. 18	<i>To the Mexican Ambassador</i> Objection to the term "contraband of war" in the Ambassador's note of April 1; advice that inquirers regarding the exportation of coal, gasoline, petroleum, and other fuels to rebel territory are being advised that the consignee in Mexico should make application for export licenses through the Mexican Embassy in Washington.	397
Apr. 19	<i>From the Consul at Guaymas (tel.)</i> Advice that the situation in Guaymas and Empalme is calm and that the destroyer commander will render all proper assistance to refugees who desire it; also that previous representations have resulted in the cessation of seizures and threatened seizures of oil from American companies.	398
Apr. 20	<i>From the Consul at Guaymas (tel.)</i> Report of satisfactory conference with rebel general; probability that rebel retreat is imminent.	398
Apr. 22	<i>Memorandum by the Chief of the Division of Mexican Affairs</i> Record of steps taken with the Justice and War Departments which resulted in decision that 18 armed rebels who entered the United States at Sasabe, Arizona, and were detained by immigration officers, were to be taken into custody by the Army.	398
Apr. 22	<i>From the Consul at Guaymas (tel.)</i> Information that rebels have seized and are using Southern Pacific property and fuel oil at Guaymas and Empalme; advice that strong oral protest has again been made for the protection of American interests.	399
Apr. 22	<i>From the Consul at Guaymas (tel.)</i> Advice that a Federal gunboat shelled rebel trains near Empalme and that Americans have been brought to Guaymas.	400
Apr. 23	<i>From the Consul at Nogales (tel.)</i> From the Consul at Guaymas: Desire that reply to telegram of April 22 be expedited, as similar case arises in connection with Standard Oil Co. stocks at Yavaros and it may be necessary to request that the <i>Selfridge</i> , en route to Guaymas to replace the <i>Robert Smith</i> , be ordered to Yavaros.	400
Apr. 24	<i>From the Consul at Nogales (tel.)</i> From the Consul at Guaymas, April 23: Advice that the Consul and the destroyer commander have obtained promise from gunboat officers not to bombard Guaymas and have protested proposed bombardment of Empalme as unnecessary from military viewpoint and ruinous to railway interests there.	400

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1929 Apr. 24	<i>To the Consul at Guaymas (tel.)</i> Opinion that it would be unwise for destroyer to undertake to take charge of fuel oil at Guaymas.	401
Apr. 24	<i>To the Secretary of Labor</i> Request that the Department of State be consulted prior to the taking of any action to deport Mexican insurrectionists from the United States.	401
Apr. 25	<i>To the Consul at Nogales (tel.)</i> To the Consul at Guaymas: Inability to perceive a legal basis on which to base representations against bombardment of Empalme by Federal forces; advice, however, that representations of the strongest character may be made to rebels against injuries by them to American life and property; instructions to keep these distinctions in mind. (Instructions to repeat to Ciudad Obregon for information of the Vice Consul and for his guidance if a similar situation should occur in his district.) (Footnote: Repeated to the Ambassador in Mexico as telegram No. 328, with authorization to inform the Mexican Government if advisable.)	402
Apr. 26	<i>To the Mexican Ambassador</i> Information that, in accordance with the Ambassador's request, U. S. immigration authorities will permit the entrance into the United States at Sasabe of wounded and unarmed Mexican nationals seeking hospital or medical attention; pertinent paragraph of the Labor Department regulations (text printed).	403
Apr. 26	<i>From the Consul at Nogales (tel.)</i> From the Consul at Guaymas: Advice from the Vice Consul at Ciudad Obregon that a Federal bomb dropped through roof of his office the previous day; information that the Federal general has been requested to prevent repetition of the incident.	404
Apr. 26	<i>To the Consul at Nogales (tel.)</i> To the Consul at Guaymas: Instructions, should similar occurrences such as the bombing of the Consulate at Ciudad Obregon take place in the future, to notify the Department in order that it may make representations to Federal military commanders.	404
Apr. 27 (55665/ 176)	<i>From the Assistant Secretary of Labor</i> Nonintention to force the return to Mexico of an insurrectionist so long as his life would be jeopardized by such action.	405
Apr. 28 (344)	<i>To the Ambassador in Mexico (tel.)</i> Telegram from the U. S. S. <i>Moody</i> at Guaymas, April 27, (text printed), stating that the rebels are leaving, that the Federals have warned they will raid Guaymas from the air on April 28, and that the destroyer will take Americans on board and assist in evacuating foreigners; instructions to bring Department's telegram No. 328 of April 25 to the attention of the Mexican Government, suggesting that it may wish to undertake bombardment only upon urgent military necessity and after ample warning has been given.	406

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1929 Apr. 29	<i>From the Consul at Ciudad Juarez (tel.)</i> Information that certain refugee rebel civilians who desire to regularize their entry for permanent stay do not dare to cross to the Mexican side to obtain visas at the Consulate; inquiry whether their applications could be taken at the boundary.	406
Apr. 30 (231)	<i>From the Ambassador in Mexico (tel.)</i> Communication to President Portes Gil of information that the U. S. Government will soon advise that it can no longer supply certain war materials; opinion of the President that this will be satisfactory and that no further supplies are needed.	407
Apr. 30 (351)	<i>To the Ambassador in Mexico (tel.)</i> Probability that Nogales will soon surrender to the Federal forces; authorization to suggest, if it is deemed advisable, that the Mexican Government give favorable consideration to acceptance of surrender of Nogales, and Agua Prieta also, at the proper time and that it announce that it will accord lenient treatment to rebellious elements who may be in those cities if they surrender immediately and unconditionally.	407
May 1	<i>To the Consul at Ciudad Juarez (tel.)</i> Advice that consular officers may not act in official capacity while in the United States; observation that as the Department of Labor does not intend to deport refugee rebel civilians to Mexico for the present, the plea of emergency would appear to be eliminated.	408
May 1	<i>To the Collector of Customs at Douglas, Arizona (tel.)</i> Receipt of request from the Mexican Embassy that, in view of the surrender of Agua Prieta, no further restrictions be placed on exportation of food and other supplies; authorization to permit unrestricted exportation of such supplies. (Sent, <i>mutatis mutandis</i> , to the Collector of Customs at Nogales, Arizona, mentioning Nogales, Mexico, as the place which surrendered.)	408
May 1	<i>To the Secretary of War</i> Request that Army authorities continue to hold in custody the 18 armed rebels who recently crossed the border at Sasabe, Arizona, until the insurrectionist movement along the border has been terminated.	408
May 1	<i>From the Consular Agent at Cananea</i> Advice that, following protest made in accordance with instructions of March 29, no forced loan was required of an American citizen.	409
May 1 (233)	<i>From the Ambassador in Mexico (tel.)</i> Delivery to the President of suggestion contained in telegram No. 351 of April 30; information that the garrisons at Nogales and Agua Prieta surrendered the previous day.	410
May 2 (4)	<i>From the Consul at Agua Prieta</i> Details concerning the surrender of the city.	410

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1929 Undated [Rec'd May 3]	<i>From the Consul at Nogales (tel.)</i> Notification by the Federal tax office to all taxpayers, including Americans, to make preparations to pay the taxes already paid to <i>de facto</i> authorities; request for instructions whether to make protest. (Repeated to the Embassy.)	412
May 3 (356)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to request that authorities in Sonora be instructed not to insist on repayment of taxes by Americans and to reiterate statements contained in telegram No. 217 of March 29; information that the Consul at Nogales is being advised and instructed to inform Americans not to make repayment except under protest and to demand receipts.	412
May 4 (WPD 3297-32)	<i>From the Secretary of War</i> Advice that Army authorities will continue to hold the 18 armed rebels in custody, and will not turn them over to immigration authorities without prior consultation with the Department of State.	413
May 4	<i>To the Attorney General</i> Confirmation of arrangement reached at conference, April 13, with representatives of the Justice, Labor, and War Departments regarding the disposition of Mexican Federals or rebels entering the United States; advice that the arrangement would appear to be of no immediate practical value in view of the termination of the insurrection.	413
May 4	<i>From the Consul at Nogales (tel.)</i> Notification to Americans by the Federal internal revenue inspector of the Government's objection to their applying to Consuls or the Department of State for relief in regard to payment of taxes. (Sent also to the Embassy.)	414
May 4 (237)	<i>From the Ambassador in Mexico (tel.)</i> Discussion of taxation question with the Foreign Office upon receipt of undated telegram from the Consul at Nogales; information that the Ambassador is complying with instructions contained in telegram No. 356 of May 3.	414
May 6 (239)	<i>From the Ambassador in Mexico (tel.)</i> Advice that the Foreign Office will telegraph suitable instructions to the authorities in Sonora in connection with telegram of May 4 from the Consul at Nogales; impression that Foreign Office feels the authorities in Sonora are not justified in taking the position they appear to have assumed. (Repeated to the Consul at Nogales.)	414
May 7 (2822)	<i>From the Mexican Ambassador</i> Notification of the reopening of customhouses at Nogales, Agua Prieta, and Guaymas to international traffic.	415
May 8 (361)	<i>To the Ambassador in Mexico (tel.)</i> Instructions for possible representations in the matter of double taxation.	415

MEXICO

THE INSURRECTION IN MEXICO—Continued

Date and number	Subject	Page
1929 May 8 (364)	<i>To the Ambassador in Mexico (tel.)</i> Telegram from the Consul at Nogales, May 7 (text printed), inquiring whether the instructions with regard to Sonora outlined in Department's telegram of May 3, apply to Sinaloa as well; instructions to request that authorities at Sinaloa be instructed not to insist on repayment of taxes and to reiterate statement contained in telegram No. 217 of March 29; advice that Consul is being informed that the instructions of May 3 apply to all cases where repayment of taxes is demanded.	416
May 8	<i>Press Release Issued by the Department of State</i> Removal of restrictions on the exportation of commercial aircraft to Mexico.	417
May 14	<i>To the Mexican Ambassador</i> Advice that the U. S. Government, following the tenets of international law, considers that a foreign port in the hands of the enemies of the government to which such foreign port belongs is to be regarded as still open and international traffic is entitled to continue to flow through it without hindrance or molestation so far as the regular government is concerned except where ingress to or egress from such port is physically prevented, by blockade or otherwise.	417
May 18	<i>Memorandum by the Chief of the Division of Mexican Affairs</i> Information from the War Department that 19 rebels which had been admitted at Sasabe, Arizona, had been turned over to the Mexican Consul at Nogales on May 3 to be returned to Mexico. (Footnote: Notations by Assistant Secretary of State Clark containing record of telephone conversation with the Mexican Ambassador in which he gave assurance that the men would be perfectly safe and promised to telegraph both to the Mexican Consul at Nogales and to Mexico City to guard against any peradventure.)	418
May 21	<i>To the Mexican Ambassador</i> Advice that the Secretary of War has been requested to deliver to the Mexican Consul General at El Paso the arms and munitions of the Federal troops who were detained at Fort Bliss.	418
May 21 (1645)	<i>From the Ambassador in Mexico</i> Account of the military operations during the insurrection.	418
May 25	<i>To the Vice Consul at Durango</i> Instructions to advise the Governor of Durango that the U. S. Government will regard all payments of taxes to <i>de facto</i> authorities as completely relieving American citizens from all further obligations in regard to such payments.	425
May 29	<i>To the Mexican Ambassador</i> Acknowledgment of note of May 13 which states that, with the reopening of Yavaros, Sonora, to international traffic, none of the border or seacoast customhouses now remains closed; reference to the position of the Department of State set forth in note of May 14.	426

MEXICO

THE INSURRECTION IN MEXICO—Continued

Date and number	Subject	Page
1929 June 1 (101)	<i>From the Vice Consul at Durango</i> Information that the Governor accepted statement of U. S. position without discussion; lack of knowledge of any further attempts to collect taxes from American citizens who had already made payment to the <i>de facto</i> authorities.	426
June 7	<i>To the Consul at Guaymas</i> Approval of the Consul's action in displaying the American flag over the Consulate and advising American citizens to take similar action during the period when air raids by the Federals were probable.	427
June 11 (G-4/ 12846-1)	<i>War Department Memorandum for the Assistant Chief of Staff, G-2</i> List of Government property and value thereof sold to the Mexican Government.	428
July 2 (1722)	<i>From the Ambassador in Mexico</i> Discussion with the Foreign Office of request by authorities in Agua Prieta for payment by certain American companies of taxes paid to <i>de facto</i> authorities; information that instructions are being sent to Agua Prieta authorities not to insist on such payments.	429
July 2 (409)	<i>To the Ambassador in Mexico (tel.)</i> Authorization to suggest to the Mexican Government that it request revocation of the Presidential proclamation of January 7, 1924, which imposed embargo on arms shipments to Mexico.	430
July 16 (287)	<i>From the Ambassador in Mexico (tel.)</i> Oral request by the Acting Foreign Minister, July 5, that the arms embargo be lifted.	430
July 18	<i>To President Hoover</i> Transmittal, for signature, of a proclamation lifting the embargo on arms shipments to Mexico; recommendation that it be issued without delay.	431
Aug. 8	<i>To Consular Officers in Mexico</i> Proclamation No. 1885 issued by the President, July 18, lifting the embargo on the exportation of arms and munitions of war to Mexico (text printed).	431
Aug. 21	<i>To the Mexican Ambassador</i> Information that the appropriate authorities have been requested to issue suitable instructions looking to the delivery to the Mexican Consul at Naco, Arizona, of certain arms and ammunition deposited with U. S. authorities by Mexican Federal forces.	432
Aug. 27 (1832)	<i>From the Chargé in Mexico</i> Transmittal of copy of Mexican decree of August 23 revoking decree of March 5 which declared invalid the payment of taxes to rebels.	433
Nov. 9	<i>To the Secretary of Labor</i> Request that a certain Mexican wanted by the Mexican Government for alleged revolutionary activities be not deported at this time.	433

MEXICO

CONVENTIONS BETWEEN THE UNITED STATES AND MEXICO EXTENDING DURATION OF SPECIAL AND GENERAL CLAIMS COMMISSIONS PROVIDED FOR IN CONVENTIONS OF 1923, SIGNED AUGUST 17 AND SEPTEMBER 2, 1929

Date and number	Subject	Page
1929 June 17	<i>To the Mexican Chargé</i> Transmittal of draft conventions extending the duration of the Special and General Claims Commissions provided for in conventions of 1923; draft convention extending duration of the General Claims Commission (text printed).	434
June 20 (402)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to endeavor to expedite favorable decision on the draft conventions submitted to the Mexican Chargé; also to ascertain views on the appointment of a third commissioner to fill a vacancy and signature of a protocol providing for continuance of work of the joint secretaries and of the respective agencies of the two Governments.	436
July 15 (4124)	<i>From the Mexican Ambassador</i> Willingness to extend duration of the General Claims Commission provided article 9 of the convention of 1923 is modified to remove provision for immediate payment of awards.	437
July 16	<i>To the Mexican Ambassador</i> Advice that views on proposal for modification of article 9 will soon be communicated; inquiry as to willingness to extend duration of the Special Claims Commission.	438
July 19 (418)	<i>To the Ambassador in Mexico (tel.)</i> Information that it was made clear to the Mexican Ambassador that there is practically no likelihood of the Department's acceding to request for modification of article 9, as the Senate would probably not approve.	438
July 26 (297)	<i>From the Ambassador in Mexico (tel.)</i> Suggestion that both conventions be extended without change, that endeavor be made to negotiate the en bloc settlement desired by the Foreign Office, and that assurance be given that for a definite period the Mexican agent would not present for hearing any land claims which might involve the operation of article 9.	439
July 29 (426)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to endeavor to expedite extension of the two conventions, negotiations for an en bloc settlement, and Mexican acquiescence to proposal made to Mexican Ambassador that the Department undertake to request the Senate to authorize modification of article 9 of the general claims convention.	440
Aug. 3 (302)	<i>From the Ambassador in Mexico (tel.)</i> Foreign Minister's instructions to the Mexican Ambassador at Washington that no objection is seen to extension of the special claims convention and that general claims convention might be renewed upon an exchange of letters or protocol covering an interpretation of article 9.	441
Aug. 3 (428)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to endeavor to obtain favorable decision on continuance of the joint secretariat and agencies in addition to the points covered by telegram No. 426 of July 29.	441

MEXICO

CONVENTIONS BETWEEN THE UNITED STATES AND MEXICO EXTENDING DURATION OF SPECIAL AND GENERAL CLAIMS COMMISSIONS—Continued

Date and number	Subject	Page
1929 Aug. 6 (306)	<p><i>From the Ambassador in Mexico (tel.)</i> Report of conference with the Acting Foreign Minister in which he stated willingness that work of the two agencies be continued but stated that formal protocol would not be necessary, and agreed to extension of the general claims convention upon condition that the Secretary of State sign a letter setting forth understanding with regard to article 9; suggested form of draft letter (text printed); advice that the appointment of a presiding commissioner was discussed but that the matter of an en bloc settlement was not discussed, as it can be taken up when the conventions have been signed.</p>	441
Aug. 7 (435)	<p><i>To the Ambassador in Mexico (tel.)</i> Concurrence in plans with respect to continuance of agencies and interpretative letter; instructions to submit letter to the Acting Foreign Minister with slight change in wording; approval of decision regarding en bloc settlement.</p>	443
Undated	<p><i>Memorandum by the Under Secretary of State</i> Telephone conversation, August 7, with Senator William E. Borah in which he stated that he felt sure there would be no trouble from the Foreign Relations Committee if the Under Secretary were to give a note to Mexico interpretative of article 9 of the general claims convention.</p>	443
Aug. 8 (437)	<p><i>To the Ambassador in Mexico (tel.)</i> Opinion that it would be inadvisable to negotiate with respect to the appointment of a presiding commissioner until it is known definitely whether an en bloc settlement can be reached.</p>	444
Aug. 13 (310)	<p><i>From the Ambassador in Mexico (tel.)</i> Nonobjection of the Acting Foreign Minister to formula contained in the Department's telegram No. 435 of August 7 and the Embassy's telegram No. 306 of August 6; his intention to consult the President.</p>	445
Aug. 15 (312)	<p><i>From the Ambassador in Mexico (tel.)</i> Report of further negotiations with the Acting Foreign Minister; information that the Mexican Ambassador now has authority to sign both conventions at Washington.</p>	445
Aug. 15 (443)	<p><i>To the Ambassador in Mexico (tel.)</i> Information that the Mexican Ambassador expressed the hope that matters of holding sessions of the Special Claims Commission in Mexico City, appointment of the third commissioner in accordance with procedure prescribed by the treaty of inter-American arbitration, and nondiscussion by the Special Commission of matters of domestic jurisdiction, be included in notes to be exchanged simultaneously with or prior to signature of convention.</p>	447
Aug. 16	<p><i>From the Mexican Ambassador</i> Receipt of instructions to sign the convention extending the Special Claims Commission on the understanding that the U. S. Government is disposed to continue discussing in a spirit of good will certain points intended to perfect the organization and facilitate operation of the Commission.</p>	449

MEXICO

CONVENTIONS BETWEEN THE UNITED STATES AND MEXICO EXTENDING DURATION OF SPECIAL AND GENERAL CLAIMS COMMISSIONS—Continued

Date and number	Subject	Page
1929 Undated	<i>Memorandum by the Chief of the Division of Mexican Affairs</i> Conversation with the Second Secretary of the Mexican Embassy, August 16, in which he presented the Ambassador's note.	450
Aug. 17	<i>To the Mexican Ambassador</i> Willingness to discuss questions of procedure under the special claims convention; confirmation of previous advice that the U. S. Government is agreeable that future meetings of the Commission be held in Mexico City.	451
Aug. 17	<i>Convention Between the United States of America and Mexico</i> Extending duration of the Special Claims Commission.	451
Aug. 26 (455)	<i>To the Chargé in Mexico (tel.)</i> Nonobjection to signature at Mexico City of convention extending duration of the General Claims Commission; instructions to inform the Acting Foreign Minister that the Department is sending full powers; also, to comply with Mexican desire for note to be signed by the Secretary of State by delivering note along lines of that transmitted in telegram No. 306 of August 6 and modified by Department's telegram No. 435 of August 7.	453
Aug. 26 (456)	<i>To the Chargé in Mexico (tel.)</i> Delivery by the Mexican Ambassador of note submitting list of candidates for presiding commissioner; his request for a note similar to the one sent at the time the convention was signed extending duration of the Special Claims Commission; his plan to submit note requesting that the U. S. Government undertake to discuss rules of procedure.	453
Aug. 26	<i>From the Mexican Ambassador</i> Request that the U. S. Government agree to discuss certain points of procedure with reference to the General Claims Commission.	455
Aug. 27	<i>To the Mexican Ambassador</i> Understanding with respect to article 9 of the general claims convention.	455
Aug. 27 (319)	<i>From the Chargé in Mexico (tel.)</i> Nonobjection by the Acting Foreign Minister to the procedure outlined in telegram No. 455 of August 26 for delivery of note respecting questions of procedure.	456
Aug. 28 (458)	<i>To the Chargé in Mexico (tel.)</i> Delivery to the Mexican Ambassador, August 27, of note regarding article 9 of the general claims convention; intention to reply to Ambassador's note of August 26, respecting questions of procedure, by a note along lines of first paragraph of note of August 17.	456
Aug. 28	<i>To the Mexican Ambassador</i> Willingness to discuss questions of procedure under the general claims convention.	457
Aug. 29 (460)	<i>To the Chargé in Mexico (tel.)</i> Confirmation of authorization by telephone to sign convention with inclusion of the addition to article 1, paragraph 1, desired by the Mexican Government.	457

MEXICO

CONVENTIONS BETWEEN THE UNITED STATES AND MEXICO EXTENDING DURATION OF SPECIAL AND GENERAL CLAIMS COMMISSIONS—Continued

Date and number	Subject	Page
1929 Aug. 30 (322)	<i>From the Chargé in Mexico (tel.)</i> Revised English draft of article 1 (text printed); inability of the Acting Minister for Foreign Affairs to sign the convention until September 2.	458
Aug. 31 (462)	<i>To the Chargé in Mexico (tel.)</i> Approval of revised English draft of article 1; intention to issue suitable instructions to American agent and American secretary of the General Claims Commission when convention is signed.	459
Sept. 2	<i>Convention Between the United States of America and Mexico</i> Extending duration of the General Claims Commission.	460

ATTITUDE OF THE DEPARTMENT OF STATE REGARDING AN EN BLOC SETTLEMENT OF THE CLAIMS OF AMERICAN CITIZENS AGAINST MEXICO

1929 Mar. 27 (578)	<i>To the Ambassador in Mexico</i> Comments and instructions for guidance of the Ambassador in connection with any negotiations which he may undertake with a view to reaching an agreement with Mexico for a lump sum settlement of claims of American citizens against Mexico.	461
Dec. 31 (2104-A)	<i>From the Ambassador in Mexico</i> Advice that no occasion has yet arisen to make any formal or official representations to the Mexican Government.	472

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

1929 Feb. 6 (766)	<i>From the Mexican Ambassador</i> Foreign Office approval, with certain conditions and reservations, of Minute No. 111 of December 21, 1928, of the International Boundary Commission, which recommends engineering feasibility of a preliminary plan for stabilization of the boundary and rectification of the Rio Grande, El Paso, and Juarez valleys.	473
May 13	<i>To the Mexican Ambassador</i> Observations on the Mexican conditions and reservations; suggestion that the Mexican Boundary Commissioner be authorized to proceed with the American Commissioner toward preparation of a joint report and draft agreement or convention covering the entire matter of river rectification, boundary stabilization, and disposition of attached areas contemplated by the proposed engineering plan.	474
May 31 (3346)	<i>From the Mexican Ambassador</i> Protest against proposed construction of U. S. Government buildings on land located in the El Chamizal zone in El Paso, Texas, awarded to Mexico by arbitral decision in 1911.	476

MEXICO

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

Date and number	Subject	Page
1929 Oct. 12	<i>From the Mexican Ambassador</i> Restatement of view that the Commission should settle pending banco cases before entering into negotiations for an agreement for rectification of the river; request that appropriate instructions be issued to the American Commissioner.	476
Oct. 23	<i>To the Mexican Ambassador</i> Reference to conversation, October 15, in which the Ambassador stated his Government's willingness to proceed with the elimination of bancos and river rectification simultaneously and the Under Secretary of State advised that the American Commissioner would be requested to proceed on that basis; information that appropriate instructions have been issued; request that corresponding instructions be issued to the Mexican Commissioner.	478
1930 Jan. 7	<i>To the Mexican Ambassador</i> Information that the selection of a site for a Federal building in El Paso will be held in abeyance for the time being.	479

GOOD OFFICES OF AMBASSADOR MORROW IN FACILITATING NEGOTIATIONS BETWEEN THE MEXICAN GOVERNMENT AND REPRESENTATIVES OF THE ROMAN CATHOLIC CHURCH

1929 June 22	<i>Memorandum by the Chief of the Division of Mexican Affairs</i> Telephone conversation with Ambassador Morrow, June 21, in which he advised that the religious question had been settled.	479
June 22	<i>To the Ambassador in Mexico</i> Congratulations from the President and the Secretary of State for assistance rendered by the Ambassador in the settlement of the religious question.	480
July 2	<i>From the Ambassador in Mexico</i> Expression of appreciation for letter of June 22; opinion that the prompt and decisive action of the President and the Department at the time of the revolutionary crisis was an important element in adjustment of the religious question. (Note: Excerpt from memorandum by the Chief of the Division of Mexican Affairs of a conversation with the Mexican Ambassador, May 30, in which the former explained that Ambassador Morrow had acted purely in a private capacity.)	480

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES
TO AMERICAN CITIZENS AND PROTÉGÉS IN THE FRENCH ZONE IN MOROCCO

Date and number	Subject	Page
1928 Feb. 18 (271)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Information that increase in pilotage dues at Casablanca was put into force without notice and has been collected from American vessels under protest; advice that American Diplomatic Agent recalled to the French Resident General that it was necessary to request and receive the U. S. Government's assent before the increased taxes could be legally levied on American vessels; suggestion that consent be given on condition that the additional amounts levied prior to notification of consent be refunded.	482
Mar. 27 (469)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Authorization to give consent to application of the increased dues when refund has been made of unauthorized increases levied on American vessels up to the date of notification of U. S. consent.	483
1929 Jan. 25 (359)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Submittal of correspondence exchanged with the French Resident General since dispatch, on April 19, 1928, of note in accordance with the Department's instructions; note to the Resident General, December 3, 1928 (text printed), presenting arguments overruling his objections to refund of the excess dues; advice that the Resident General has transmitted text of note of December 3, 1928, to his Government.	483
Feb. 26 (3076)	<i>To the Ambassador in France</i> Advisability of reminding the French Government that American treaty rights in Morocco, acquired by the Act of Algeciras and previous treaties, remain unimpaired; memorandum for the Foreign Office (text printed), stating that the position set forth in the Diplomatic Agent's note of December 3, 1928, is fully endorsed by the U. S. Government and is in accord with that which has previously been set forth to the French Government, and stating also that the U. S. Government is constrained to withhold assent to application of the excess dues until such time as refund has been made of the excess taxes previously collected.	487
Sept. 5 (9811)	<i>From the Chargé in France</i> Presentation of memorandum, March 14; report of efforts to expedite action on this and other matters concerning American rights in Morocco.	490
Oct. 7 (4265)	<i>To the Chargé in France</i> Commendation of efforts to expedite action.	491

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

1929 Feb. 28 (1163)	<i>From the Chargé in Spain</i> Advice that the Spanish Government has approved the joint report of July 12, 1928, for settlement of American claims in the Spanish Zone, except in the Kittany case, concerning which the High Commission and the Ministry of War disagreed.	492
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MOROCCO

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

Date and number	Subject	Page
1929 May 14 (10)	<i>From the Diplomatic Agent and Consul General at Tangier (tel.)</i> Information that the Diplomatic Agent and the High Commissioner have arrived at an <i>ad referendum</i> agreement revising downward the total amount of American claims; also, that the three claims which were reserved by the Spanish Government in the joint report will be settled subsequent to payment of the other claims and to U. S. recognition of the Spanish Zone; recommendation for approval of these propositions when presented by the Spanish Government. (Copy to the Embassy in Spain.)	492
May 17 (392)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Amplification of telegram No. 10 of May 14.	493
May 18 (10)	<i>To the Diplomatic Agent and Consul General at Tangier (tel.)</i> Advice that the Department is awaiting formal presentation of Spanish proposition.	498
June 11 (29)	<i>To the Ambassador in Spain (tel.)</i> Instructions to endeavor to expedite action on Spanish offer.	498
June 19 (41)	<i>From the Ambassador in Spain (tel.)</i> Understanding that <i>ad referendum</i> agreement is satisfactory to the Foreign Office and that it hopes the Government will also approve.	498
June 19 (410)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Advice that slight misunderstanding with respect to one claim has been adjusted and that total claim is reduced thereby; probability that matter will remain in abeyance until it receives the personal attention of the President of the Council of Ministers.	499
June 24 (1280)	<i>From the Ambassador in Spain</i> Information that delay is due to questions of principle involved. (Copy to the Diplomatic Agent at Tangier.)	500
July 9 (37)	<i>To the Chargé in Spain (tel.)</i> Instructions to endeavor to hasten action by the President of the Council during visit to Madrid of the Spanish High Commissioner.	500
Aug. 20 (1338)	<i>From the Ambassador in Spain</i> Foreign Office note No. 151, August 9 (text printed), setting forth the basis on which the Spanish Government will settle the American claims. (Copy to the Diplomatic Agent at Tangier.)	500
Nov. 6 (637)	<i>To the Chargé in Spain</i> Opinion that the suggestions contained in the Spanish note of August 9 depart so radically from agreements and understandings already reached between the two Governments as to repudiate them; instructions to convey this view orally and informally to the Spanish Government. (Copy to the Diplomatic Agent at Tangier.)	503
Nov. 25 (1416)	<i>From the Chargé in Spain</i> Information that U. S. views were communicated informally to the Secretary General and that he stated there was nothing to be done but let the matter drop; opinion that the Spanish Government will allow the question to slumber.	504

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES TO AMERICAN CITIZENS AND PROTÉGÉS IN THE TANGIER INTERNATIONAL ZONE

Date and number	Subject	Page
1928 Dec. 4 (343)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Receipt from the French Resident General of request for U. S. consent to application to American citizens and protégés of a proposed law empowering the Tangier Administration to impose increases in various taxes from time to time; opinion that this so-called "padlock law" is incompatible with observance of existing treaty provisions; receipt also of information concerning four fiscal measures proposed to be introduced in the near future in the preliminary application of the law, and of request for U. S. consent to application to American citizens and protégés.	505
Dec. 7 (573)	<i>From the British Ambassador</i> Desire for U. S. consent to application to American nationals of any legislative measures concerning taxation which may be passed by the Tangier Administration.	510
Dec. 10	<i>From the Italian Ambassador</i> Desire for U. S. consent to application to American nationals of any legislative measures concerning taxation which may be passed by the Tangier Administration.	511
Dec. 20 (16)	<i>To the Diplomatic Agent and Consul General at Tangier (tel.)</i> Information concerning receipt of British and Italian notes; anticipation of receipt of similar French and Spanish notes.	512
Dec. 27 (17)	<i>To the Diplomatic Agent and Consul General at Tangier (tel.)</i> Unlikelihood of the Department's acceding to proposed padlock law; inability to assent in advance to the proposed four taxation measures without examining the texts.	512
Dec. 31 (350)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Notes No. 360-D and No. 361-D from the French Resident General, November 23 (texts printed), transmitting texts of the proposed padlock law and the four draft regulations concerning increases in consumption and gate taxes.	512
1929 Jan. 3	<i>From the French Ambassador</i> Desire for U. S. consent to application to American nationals of any legislative measures concerning taxation which may be passed by the Tangier Administration.	516
Jan. 7	<i>From the British Embassy</i> Hope that the U. S. Government will consent to application to American nationals of the four specific taxation increases; advice that such consent would in no way prejudice U. S. decision on the padlock law.	517
Jan. 8	<i>From the Italian Embassy</i> Desire of the Italian Ambassador to associate himself with the British Ambassador's request of January 7.	519
Jan. 16	<i>To the British Embassy</i> Information that the Department is awaiting receipt of the requests from the French Resident General with respect to the padlock law and the four specific taxation increases. (Copy to the Italian Embassy, January 25.)	519

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES
TO AMERICAN CITIZENS AND PROTÉGÉS IN THE TANGIER INTERNATIONAL
ZONE—Continued

Date and number	Subject	Page
1929 Jan. 22 (4)	<i>To the Diplomatic Agent and Consul General at Tangier (tel.)</i> Authorization to give provisional consent to the application to American nationals and protégés of the four proposed taxation measures, to be effective upon their adoption by the Legislative Assembly, on understanding that American consular jurisdiction over Americans who may become involved in infractions of the new law remains unimpaired.	520
Jan. 28 (5)	<i>To the Diplomatic Agent and Consul General at Tangier (tel.)</i> Advice that consent to the padlock law will be refused.	521
Jan. 29 (505)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Note for the French Resident General (text printed), stating inability to consent to application to American nationals and protégés of the padlock law but declaring willingness to examine in advance the texts of any new draft laws with a view to prompt enforcement after adoption by the Legislative Assembly.	521
Jan. 31	<i>From the Spanish Ambassador</i> Desire for U. S. consent to application to American nationals of any legislative measures concerning taxation which may be passed by the Tangier Administration.	522
Feb. 5 (3)	<i>From the Diplomatic Agent and Consul General at Tangier (tel.)</i> Information that the conditions of U. S. consent regarding the four fiscal measures were communicated to the French Resident General on January 25, and that he has replied that the measures are applicable as of February 1, having been adopted by the Legislative Assembly, promulgated by the Sultan's representative, and countersigned by the President of the Committee of Control.	523
Feb. 9 (366)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Note No. 28-D, February 5, from the French Residency General (text printed), stating that application of the four fiscal measures will in no way impair American consular jurisdiction over American protégés; copy of note, February 2, from the President of the Committee of Control to the French Residency General (text printed) advising that the Committee has noted U. S. assent.	523
Feb. 14 (5)	<i>From the Diplomatic Agent and Consul General at Tangier (tel.)</i> Dispatch of the note contained in instruction No. 505 of January 29.	525
Feb. 27	<i>To the British Ambassador</i> Inability to grant the consent requested in note No. 573 of December 7, 1928; transmittal of text of the note by which the American Diplomatic Agent informed the French Resident General of this position. (Similar replies to the Italian and Spanish Ambassadors.)	525
Feb. 27	<i>To the British Embassy</i> Information that U. S. consent has been given to application to American nationals and protégés of the four specific taxation measures. (Similar replies to the Italian Embassy and to the Spanish Ambassador.)	526

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES
TO AMERICAN CITIZENS AND PROTÉGÉS IN THE TANGIER INTERNATIONAL
ZONE—Continued

Date and number	Subject	Page
1929 Feb. 27	<i>To the French Embassy</i> Advice that the U. S. Government has given consent to the application to American nationals and protégés of the four specific taxation measures, but that it cannot grant the consent requested concerning the padlock law; transmittal of text of the note by which the American Diplomatic Agent informed the French Resident General of the latter position.	526
Apr. 8 (201)	<i>From the British Ambassador</i> Expression of appreciation for the information of February 27.	527
1930 Jan. 8 (573)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Instructions to inform the French Resident General, in reply to his request for the application to American protégés of the registration and stamp taxes, that the U. S. Government consents, with the usual reservations, to the provisions respecting alcohols and beers, sugar, and immovable property, but cannot consent to provisions respecting transfers of movable property and stamp taxes.	528

NONACQUIESCENCE BY THE UNITED STATES IN THE APPLICATION TO AMERICAN
VESSELS OF THE TARIFF OF THE TANGIER PORT CONCESSION COMPANY

1929 May 7 (389)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Note No. 111-D, April 13 (text printed), from the French Resident General, requesting that the tariff of the Tangier Port Concession Co. be made applicable to American vessels.	529
June 6 (11)	<i>To the Diplomatic Agent and Consul General at Tangier (tel.)</i> Inquiry as to when and how tariff of the Tangier Port Concession Co. was originally effected.	534
June 12 (403)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Information that the application of a tariff proposed by the Tangier Port Concession Co. becomes legal by approval of the Tangier Port Commission established under the Statute of Tangier of 1923; observation that the tariff must be approved by the U. S. Government before it can become legally binding on American citizens and protégés.	535
Nov. 16 (563)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Instructions to reply to the French Resident General's note of April 13 by stating inability to acquiesce in application of the tariff to American vessels; observation that the U. S. Government has firmly protested the legality of the concession and has not adhered to the Statute of Tangier.	536

MOROCCO

RESERVATION OF AMERICAN RIGHTS WITH RESPECT TO PROPOSED CHANGES IN THE ADMINISTRATION OF CAPE SPARTEL LIGHT

Date and number	Subject	Page
1928 Dec. 11 (345)	<p><i>From the Diplomatic Agent and Consul General at Tangier</i></p> <p>Information that, in submitting to the other members of the International Commission for the Maintenance of the Lighthouse at Cape Spartel a proposal of the Shereefian Government that the operation and administration of the lighthouse be confined to the Engineer and Technical Adviser of the Maghzen, under a double delegation from the Commission and the Government, the American Diplomatic Agent appended a statement (text printed) containing observation that such an arrangement would be in derogation of the Convention of 1865 providing for international administration; request for instructions in the event the matter should appear again in discussions of the Commission.</p>	537
1929 Jan. 17 (502)	<p><i>To the Diplomatic Agent and Consul General at Tangier</i></p> <p>Approval of the observations made to colleagues; authorization to maintain this position in any future discussions.</p>	538

NETHERLANDS

ARBITRATION AGREEMENT WITH THE NETHERLANDS FURTHER EXTENDING THE DURATION OF THE CONVENTION OF MAY 2, 1908

1929 Feb. 27	<p><i>Agreement Between the United States of America and the Netherlands</i></p> <p>Extending the duration of the arbitration convention of May 2, 1908.</p>	539
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INTEREST OF THE UNITED STATES IN MAINTAINING EQUAL RIGHTS FOR AMERICAN OIL COMPANIES WITH THOSE OF OTHER COUNTRIES WITH REGARD TO PETROLEUM MINING CONCESSIONS

1929 Mar. 27 (650)	<p><i>To the Minister in the Netherlands</i></p> <p>Instructions to render appropriate assistance to Mr. Francis B. Loomis, of the Standard Oil Co. of California, in efforts to obtain oil concessions in the Netherlands East Indies.</p>	540
Apr. 29 (1873)	<p><i>From the Minister in the Netherlands</i></p> <p>Report of assistance rendered to Mr. Loomis; understanding that, in response to Mr. Loomis' inquiry regarding rumor that oil rights in the Indies had been apportioned between the Royal Dutch and the Standard Oil Co. of New Jersey, the Secretary General of the Colonial Ministry stated that there was an arrangement whereby the exploitation of certain districts had been reserved for the Standard Oil Co. of New Jersey, the Royal Dutch, and the Government.</p>	540
May 29 (676)	<p><i>To the Minister in the Netherlands</i></p> <p>Instructions to investigate and report fully on any agreements affecting American participation in exploitation of oil fields of the Netherlands East Indies.</p>	543

NETHERLANDS

INTEREST OF THE UNITED STATES IN MAINTAINING EQUAL RIGHTS FOR AMERICAN OIL COMPANIES WITH THOSE OF OTHER COUNTRIES WITH REGARD TO PETROLEUM MINING CONCESSIONS—Continued

Date and number	Subject	Page
1929 June 19 (1931)	<i>From the Minister in the Netherlands</i> Opinion that the rumors are without foundation; observation that such an exclusive arrangement as has been intimated would be next to impossible under Netherlands law.	543
Oct. 28	<i>To Certain Diplomatic and Consular Officers in the Netherlands and Its Dependencies</i> Instructions to investigate and report on the conditions under which foreign oil companies operate in the officer's district with a view to ascertaining whether British companies enjoy advantages denied to American companies in such a manner as to be discriminatory against American companies. (Footnote: Dispatch, October 23, of a similar instruction, <i>mutatis mutandis</i> , to certain American diplomatic and consular officers in Great Britain and its dependencies.)	546
Nov. 26 (10)	<i>From the Minister in the Netherlands</i> Advice that no discrimination in favor of British oil companies exists in Netherlands territories. (Footnote: Information that a similar reply to the Department's instruction of October 23 was received from the Embassy in Great Britain, in despatch No. 468 of December 3.)	547

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA

1929 Jan. 3 (6)	<i>From the Minister in Nicaragua (tel.)</i> Recommendation by Admiral Sellers that Marine force in Nicaragua be reduced to 3500 men; President Moncada's concurrence; his desire to assume more responsibility for suppressing banditry in the northern departments and to organize a small volunteer force under Guardia Nacional and Marine officers to conduct an active campaign against Sandino and make it unnecessary for the marines to continue their present active field work.	549
Jan. 9 (17)	<i>From the Minister in Nicaragua (tel.)</i> Desire of President Moncada to establish martial law in the northern departments where bandits are operating; opinion that U. S. consent should be given.	550
Jan. 15 (8)	<i>To the Minister in Nicaragua (tel.)</i> Opinion that the establishment of martial law is a matter in which the decision and responsibility should rest on the Nicaraguan Government alone.	551
Jan. 21 (24)	<i>From the Minister in Nicaragua (tel.)</i> Intention of President Moncada to request Congress to declare martial law for four of the northern departments. (Footnote: Information in Legation's telegram No. 40, February 4, that President Moncada signed law on February 2 putting martial law into effect immediately; subsequent communications from the Legation, April 11, June 17, August 8, October 4, and December 7, reporting 60-day extensions of the law.)	551

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT
ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1929 Mar. 12 (35)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to report in general on the military situation from time to time and in particular on the operations of the volunteer forces organized in January.	551
Mar. 16 (938)	<i>From the Minister in Nicaragua</i> Report on the military situation and operations of the volunteer forces.	552
Mar. 17 (72)	<i>From the Minister in Nicaragua (tel.)</i> Information from brigade headquarters concerning encounters between bandits and Marine and volunteer forces; belief that bandits crossed into Honduras. (Repeated to Tegucigalpa.)	555
Apr. 1 (30)	<i>From the Minister in Honduras (tel.)</i> Foreign Office note (text printed) requesting investigation of information from private sources that American forces in Nicaragua wish to provoke a conflict with Honduras. (Repeated to Managua.)	555
Apr. 2 (26)	<i>To the Minister in Honduras (tel.)</i> Instructions to inform the Foreign Office that the Department has no information which would indicate that there are any grounds for the report and to request information upon which the charges are based.	555
Apr. 2 (46)	<i>To the Minister in Nicaragua (tel.)</i> Transmittal of text of telegram No. 26 sent to Honduras; instructions to report whether there has been any friction along the frontier which would afford a basis for the Honduran Government's statements.	556
Apr. 3 (83)	<i>From the Minister in Nicaragua (tel.)</i> Advice from Brigade Commander that there has been no friction along the border; also, that when hard-pressed by the marines, Honduran followers of the bandits cross into Honduras and their friends there report to Tegucigalpa that the marines have invaded Honduras. (Repeated to Tegucigalpa.)	556
Apr. 3 (84)	<i>From the Minister in Nicaragua (tel.)</i> Telegram from President Moncada to the President of Honduras, April 2 (text printed), regarding boundary difficulty between the two countries.	556
Apr. 6 (848)	<i>From the Minister in Honduras</i> Receipt of Foreign Office notes transmitting telegrams from General Sánchez in which he states he is in possession of a bomb dropped from American airplanes at Las Limas; observation that the Honduran Government is continually receiving exaggerated reports from the frontier.	557
Apr. 8 (89)	<i>From the Minister in Nicaragua (tel.)</i> Telegraphic reply from the Honduran President to President Moncada, April 2 (text printed), requesting that Nicaraguan forces retire from Honduran territory; desire of the Nicaraguan Foreign Office that the Brigade Commander be instructed to avoid friction with the Honduran Government; assurances by the Brigade Commander that the Honduran border is being respected by the marines, guardia, and volunteer forces under his command. (Repeated to Tegucigalpa.)	558

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT
ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1929 Apr. 9 (94)	<i>From the Minister in Nicaragua (tel.)</i> Telegram from the Brigade Commander to the Commander of the Special Service Squadron (text printed), reporting circumstances at Las Limas under which airplanes of the border patrol which were fired on by bandits bombed and dispersed the attackers, and advising that Las Limas is so close to border that it is claimed by both countries. (Repeated to Tegucigalpa.)	559
Apr. 9 (47)	<i>To the Minister in Nicaragua (tel.)</i> Assumption that the assurances of the Brigade Commander contained in telegram No. 89 of April 8 have been conveyed to President Moncada.	559
Apr. 9 (28)	<i>To the Minister in Honduras (tel.)</i> Instructions to supplement statements to the Foreign Office based on telegram No. 26 of April 2 with the assurances contained in telegram No. 89, April 8, from the Minister in Nicaragua.	559
Apr. 13 (53)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to keep the Department fully informed of a reported conference on the frontier between high Honduran officials and American Marine officers for the purpose of agreeing on measures to prevent "further invasions of Honduran territory." (Sent also to the Minister in Honduras.)	560
Apr. 15 (39)	<i>From the Minister in Honduras (tel.)</i> Advice that the Subsecretary of the Interior, recently sent to investigate occurrences on the border, may possibly have conferred with Marine officers, but that no report from him has yet been received.	560
Apr. 15 (104)	<i>From the Minister in Nicaragua (tel.)</i> Information that the only conference held was that of April 6 near Las Manos, when chiefs of the border patrols of the two countries met to discuss plans for closer and more effective cooperation in stamping out banditry along the border; also, that the Honduran Subsecretary of the Interior was present, but that there was neither complaint nor discussion of "past or further invasions of Honduran territory".	560
Apr. 17 (108)	<i>From the Minister in Nicaragua (tel.)</i> Report that two of the bandit groups have been dispersed, that other chiefs are abandoning operations, and that in general the military situation is excellent; hope of Brigade Commander that a gradual reduction of Marine forces may be possible by July.	561
Apr. 19 (114)	<i>From the Minister in Nicaragua (tel.)</i> Delivery to President Moncada, with expression of concurrence, of memorandum received from Admiral Sellers stating his intention to recommend a further reduction in Marine forces in Nicaragua of 800 men and officers; advice that the President approves.	561

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT
ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1929 Apr. 29 (122)	<i>From the Minister in Nicaragua (tel.)</i> Discontinuance of a number of Marine posts in northeastern Nicaragua; preparations for withdrawal of 15 officers and 250 men from Nicaragua the following day.	562
May 6 (508)	<i>To the Minister in Nicaragua</i> Desire for comments on report sent from Costa Rica, April 12, by the Military Attaché (excerpt printed), with special reference to statement that the three commanders of Nicaraguan volunteer forces declared that the appalling destruction in the Segovias had been done, not by the marines, but by the bandit Sandino and his men.	562
May 6 (509)	<i>To the Minister in Nicaragua</i> Instructions to obtain from the Brigade Commander and forward to the Department a full report of conference at Las Manos on April 6 and of the agreement said to have been entered into with the Honduran representatives.	563
May 8 (133)	<i>From the Minister in Nicaragua (tel.)</i> Desire of President Moncada that the Department make appropriate representations to the Honduran Government to prevent sympathizers in Honduras from furnishing arms and assistance to Nicaraguan rebels along the frontier.	564
May 10 (983)	<i>From the Chargé in Nicaragua</i> Memorandum by the Brigade Commander, May 6, regarding the military situation (text printed).	564
May 24 (1008)	<i>From the Chargé in Nicaragua</i> Report on the military situation; suggestion that road construction in the bandit-infested regions would facilitate military operations against the bandits and would also assist in restoring order by peaceful means through the steady employment it would give.	566
June 4 (154)	<i>From the Chargé in Nicaragua (tel.)</i> Commencement of bandit activities in the Matagalpa area.	570
June 7 (1028)	<i>From the Chargé in Nicaragua</i> Letter from the Brigade Commander, June 4 (text printed), concerning the agreement reported to have been entered into at Las Manos on April 6.	571
June 10 (85)	<i>To the Chargé in Nicaragua (tel.)</i> Opinion that volunteer forces should be disbanded and all field and police work taken over by the Guardia as soon as practicable; hope that Marine forces may be gradually withdrawn as the Guardia increases in strength and in accordance with existing conditions; advice that the Department would hesitate to suggest a road construction program calling for as large an expenditure as recommended; instructions to report further details on bandit raid in Matagalpa; also, to discuss these matters with American military leaders and submit further recommendations.	574

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT
ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1929 June 12 (160)	<i>From the Chargé in Nicaragua (tel.)</i> Report on present status of volunteer, Guardia, and Marine forces; information concerning increase in bandit activity in the Matagalpa area; endorsement by Brigade and Guardia Commanders of suggested road construction plan.	575
July 17 (193)	<i>From the Chargé in Nicaragua (tel.)</i> Inability to concur in recommendation by the Commander of the Special Service Squadron for withdrawal of 1200 marines and officers.	576
July 23 (200)	<i>From the Chargé in Nicaragua (tel.)</i> Further arguments against reduction of Marine forces.	577
Aug. 22 (1127)	<i>From the Chargé in Nicaragua</i> Departure of part of the allotted 1200 marines and officers, August 21; advice that the remainder of the group will leave soon.	579
Dec. 6 (1246)	<i>From the Chargé in Nicaragua</i> Information concerning recent contacts between the Guardia and bandits; advice that apprehension of residents of the Matagalpa area has been increased by rumors that the Commander of the Special Service Squadron will recommend a further reduction in the Marine forces in Nicaragua.	579

GRANTING OF ASYLUM IN MEXICO TO GENERAL SANDINO AS A POLITICAL REFUGEE
FROM NICARAGUA

1929 Jan. 31 (14)	<i>From the Chargé in Mexico (tel.)</i> Nonintention of the Mexican Government to resume diplomatic relations with the new Nicaraguan Government until the forces of occupation are withdrawn.	580
Feb. 21 (31)	<i>From the Ambassador in Mexico (tel.)</i> Report of discussions with the Acting Foreign Minister and the President with regard to question of recognition of the Nicaraguan Government and request from General Sandino that he be granted asylum in Mexico.	581
Feb. 25 (33)	<i>To the Ambassador in Mexico (tel.)</i> Opinion that the Mexican Government would be entirely within its rights in granting Sandino's request but would have a moral responsibility to make sure that he did not use Mexico as a base of operations against the Nicaraguan Government nor as a safe refuge from which to direct or foment further revolutionary activities; authorization to communicate these views to the Mexican Government.	583
Mar. 1 (40)	<i>From the Ambassador in Mexico (tel.)</i> Agreement of the President and the Acting Foreign Minister with U. S. views.	584
Apr. 10 (35)	<i>From the Minister in Honduras (tel.)</i> Advice that the Mexican Minister has requested permission for Sandino to pass unarmed through Honduras on his way to Mexico. (Repeated to Managua.)	584

NICARAGUA

GRANTING OF ASYLUM IN MEXICO TO GENERAL SANDINO AS A POLITICAL REFUGEE
FROM NICARAGUA—Continued

Date and number	Subject	Page
1929 Apr. 11 (30)	<i>To the Minister in Honduras (tel.)</i> Authorization, if requested to give an opinion, to indicate U. S. nonobjection to the transit of Sandino from Nicaragua to Mexico; instructions to repeat telegram No. 35 of April 10 to Guatemala and El Salvador. (Substance repeated to Guatemala, Nicaragua, and El Salvador.)	585
Apr. 24 (52)	<i>From the Chargé in Guatemala (tel.)</i> Information that permission has been granted for Sandino to pass through Guatemala en route to Mexico. (Repeated to Honduras, Nicaragua, and El Salvador.)	585
Apr. 30 (230)	<i>From the Ambassador in Mexico (tel.)</i> Intention of Sandino to take up residence at Merida, Yucatan; assurance by the Mexican President that Sandino will not be allowed to come to Mexico City en route to Yucatan.	585
May 4 (236)	<i>From the Ambassador in Mexico (tel.)</i> Understanding that Sandino is still in Nicaragua pending final arrangements. (Repeated to Nicaragua.)	586
May 8 (360)	<i>To the Ambassador in Mexico (tel.)</i> Intention of the U. S. Government to instruct the forces in Nicaragua to avoid any interference with Sandino's departure; inability, however, to assume responsibility for his safety. (Substance repeated to Nicaragua.)	586
May 14 (32)	<i>From the Minister in El Salvador (tel.)</i> Information that Sandino will soon arrive in Tegucigalpa and will travel through El Salvador and Guatemala to Mexico. (Repeated to Mexico City, Tegucigalpa, Managua, San José, and Guatemala.)	587
Undated	<i>Memorandum by the Under Secretary of State</i> Conversation with the Mexican Ambassador, May 17, in which he expressed apprehension about Sandino's safety and advised that when Sandino was ready to come out the Mexican Government would inform the Department of State so that it might notify the proper persons.	587
June 28 (1718)	<i>From the Ambassador in Mexico</i> Understanding that Sandino entered Mexico on June 26 and is en route to Yucatan; renewal by the Foreign Office of assurances that Sandino will not be allowed to come to Mexico City.	588
July 11	<i>From the Vice Consul at Progreso (tel.)</i> Information that Sandino arrived at Progreso and proceeded to Merida.	588
Nov. 7 (849)	<i>To the Ambassador in Mexico</i> Transmittal of copy of manifesto to the Nicaraguan people purporting to have been issued by Sandino; advice that the Department is particularly interested to know if and when Sandino contemplates returning to Nicaragua.	588

NICARAGUA

GRANTING OF ASYLUM IN MEXICO TO GENERAL SANDINO AS A POLITICAL REFUGEE FROM NICARAGUA—Continued

Date and number	Subject	Page
1929 Dec. 4 (2034)	<i>From the Ambassador in Mexico</i> Advice that the Foreign Office has no information relative to the alleged plans of Sandino, and that the Mexican Government will do what it can to prevent Sandino's leaving directly for Nicaragua.	589
Dec. 11 (539)	<i>To the Chargé in Mexico (tel.)</i> Instructions to endeavor to obtain information about Sandino's movements and plans, reporting this information to the Department and to the Legation at Managua.	589
Dec. 19 (382)	<i>From the Chargé in Mexico (tel.)</i> Understanding that Sandino is endeavoring to buy a farm near Merida on which to live and is having difficulty in securing the purchase money; also, that there is no indication that he plans to return to Nicaragua. (Repeated to Nicaragua.)	589

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

1929 Apr. 8 (93)	<i>From the Minister in Nicaragua (tel.)</i> Information that the Government recently imprisoned some 16 men of known or reported Conservative leanings, but released them after a few days without having brought any legal charge against them.	590
Apr. 9 (48)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to report details of the arrests and imprisonments.	590
Apr. 10 (95)	<i>From the Minister in Nicaragua (tel.)</i> Advice that arrests were made by the Guardia upon the President's order, that the Guardia was not informed of charges, that the prisoners were held in penitentiary under the Guardia, and that editor Gabry Rivas and two nephews of Chamorro are still detained.	591
Apr. 11 (96)	<i>From the Minister in Nicaragua (tel.)</i> Information from the President that the recent imprisonments were legal in every way, that no prisoners were detained beyond the period of 10 days permitted by the Constitution, and that he believed the persons arrested were conspiring to promote intranquillity and lack of confidence in his regime.	591
Apr. 11 (51)	<i>To the Minister in Nicaragua (tel.)</i> Opinion that the Guardia should not be asked to make arrests without having full information of the reasons therefor; instructions to confer with the Chief of the Guardia and report.	592
Apr. 12 (99)	<i>From the Minister in Nicaragua (tel.)</i> Information that the Chief of the Guardia is investigating entire situation and is preparing a formal procedure for making arrests which he will present to the President.	592

NICARAGUA

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

Date and number	Subject	Page
1929 Apr. 16 (105)	<i>From the Minister in Nicaragua (tel.)</i> Declaration by the President that no prisoners are now being held at his order, but that Gabry Rivas and Adolfo and Enrique Vargas are being held by order of the criminal judge of Managua in connection with assault on the International Club on August 28, 1925.	592
Apr. 25 (961)	<i>From the Minister in Nicaragua</i> Further information concerning the series of arrests.	593
May 2	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the Nicaraguan Minister and the Secretary of State, in which the latter suggested, with regard to the Rivas and Vargas cases, that the Minister point out to President Moncada the advisability of living strictly up to the amnesty decree.	594
June 5 (1021)	<i>From the Chargé in Nicaragua</i> Information that the Court of Appeals of Granada has ordered the release of Rivas and other persons involved in the assault on the International Club on the ground that the proceedings against them were not properly conducted by the criminal judge of Managua.	595
Aug. 24 (1130)	<i>From the Chargé in Nicaragua</i> Information that on August 21 President Moncada ordered the arrest and confinement of Rivas and others on the charge of conspiracy to assassinate him.	595
Sept. 9 (1143)	<i>From the Chargé in Nicaragua</i> Advice that Rivas and another were released after 9 days' confinement.	596
Sept. 9 (1144)	<i>From the Chargé in Nicaragua</i> Issuance by the criminal judge of Managua, September 9, of warrants of arrest against Rivas and others involved in the assault on the International Club; information that all presented bail and are at liberty.	596
Sept. 19 (1157)	<i>From the Chargé in Nicaragua</i> Report of conversations with the President, the Vice President, and the Foreign Minister with regard to their concern over reports of plotting against the Government.	596
Sept. 25 (1170)	<i>From the Chargé in Nicaragua</i> Report of conversation with the Foreign Minister, September 24, in which he stated that President Moncada was considering some repressive measure and might declare martial law to give it the appearance of legality.	598
Sept. 29 (238)	<i>From the Chargé in Nicaragua (tel.)</i> Information that on September 27, at President Moncada's direction, a warrant was issued for the arrest of 13 persons in Managua and other cities, and that most of the arrests have been made and prisoners confined in the penitentiary.	599
[Oct. 1] (241)	<i>From the Chargé in Nicaragua (tel.)</i> Publication in the press of statement by President Moncada giving reasons for the recent arrests.	600

NICARAGUA

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

Date and number	Subject	Page
1929 Oct. 3 (243)	<i>From the Chargé in Nicaragua (tel.)</i> Arrest of Ortega Diaz, editor of <i>La Prensa</i> ; understanding that some of the prisoners recently arrested are to be deported and the remainder set at liberty if further investigation does not warrant their trial.	601
Oct. 4 (244)	<i>From the Chargé in Nicaragua (tel.)</i> Information that Gabry Rivas, Ortega Diaz, and six other prisoners have been sent to Corinto for deportation to a Mexican port on the steamship <i>Colombia</i> .	601
Oct. 9 (1185)	<i>From the Chargé in Nicaragua</i> Report of successful efforts by the Consul at Corinto and the Chargé in inducing the master of the <i>Colombia</i> to accept the deportees as passengers.	602
Oct. 11 (1189)	<i>From the Chargé in Nicaragua</i> Advice that local newspapers report that the Executive has removed the municipal governments in certain towns in the Department of Chontales and replaced them by <i>juntas locales</i> made up of Liberals.	602
Oct. 17 (254)	<i>From the Chargé in Nicaragua (tel.)</i> Understanding that the deportees were refused entrance to Mexico and are proceeding to San Francisco.	603
Oct. 26 (1203)	<i>From the Chargé in Nicaragua</i> Information that Christino Paguaga Núñez, new director of <i>La Prensa</i> , was arrested and imprisoned October 4 by orders of President Moncada, because of an editorial attacking American policy in Nicaragua.	603
Oct. 29 (583)	<i>To the Chargé in Nicaragua</i> Authorization to indicate to President Moncada that the Department would likely view with regret the initiation of a policy such as that reported in despatch No. 1189 of October 11.	604
Nov. 5 (1220)	<i>From the Chargé in Nicaragua</i> Release of Paguaga Núñez from the local penitentiary after payment of fine.	604
Nov. 9 (591)	<i>To the Chargé in Nicaragua</i> Instructions to advise President Moncada that any general policy of imprisoning or deporting persons whose political activities seem aimed against his administration would be unwise and might easily lead to greater evils, and to state that since detention and deportation would be executed by the Guardia, resentment would be deflected also toward the Guardia and its American officers.	605
Nov. 11 (158)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to advise ex-President Diaz, as the reply to his recent telegram to Minister Eberhardt, that the Department of State has advised the Department of Labor of nonobjection to the admission of the Nicaraguans, but that final decision rests with the Department of Labor.	606

NICARAGUA

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

Date and number	Subject	Page
1929 Nov. 19 (1230)	<i>From the Chargé in Nicaragua</i> Information that the jury in the case of Gabry Rivas and his associates in the assault on the International Club arrived at a verdict, November 15, pronouncing Alfred Rivas and Gabry Rivas guilty of the offenses with which they had been charged and declaring the others innocent.	606

DISINCLINATION OF THE UNITED STATES TO CONSENT TO AMENDMENTS TO THE
GUARDIA NACIONAL AGREEMENT

1929 Jan. 23 (27)	<i>From the Minister in Nicaragua (tel.)</i> Desire for authorization to state to President Moncada that the Department has firm faith in his willingness and power to effect the early passage by Congress, without amendment, of the agreement between the United States and Nicaragua, signed December 22, 1927, for the establishment of the Guardia Nacional.	606
Jan. 25 (12)	<i>To the Minister in Nicaragua (tel.)</i> Instructions for statement to the President as suggested in telegram No. 27 of January 23.	607
Jan. 26 (31)	<i>From the Minister in Nicaragua (tel.)</i> Information that President Moncada expressed again his desire to cooperate with the Department, but furnished copy of the amended Guardia agreement as passed by the Chamber of Deputies, on which he is desirous of having the Department's approval of changes which he considers clarifications rather than amendments; observation that it has been indicated to the President that the amendments change the agreement so radically that the Department can hardly but refuse to accept them.	607
Jan. 28 (16)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to request that no further action be taken on the Guardia agreement until the Department has had an opportunity to study the proposed amendments.	609
Jan. 29 (18)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to advise whether request for postponement of action on the Guardia agreement is being complied with, and also personal opinion on other factors entering into the matter.	609
Jan. 30 (907)	<i>From the Minister in Nicaragua</i> Report on the history of the Guardia agreement so far as its consideration by Congress is concerned; receipt of assurance that further action will be postponed until the Department has had an opportunity to study proposed amendments.	610
Jan. 31 (34)	<i>From the Minister in Nicaragua (tel.)</i> Opinion of President Moncada that he will be able to secure passage of the bill unamended.	612

NICARAGUA

DISINCLINATION OF THE UNITED STATES TO CONSENT TO AMENDMENTS TO THE
GUARDIA NACIONAL AGREEMENT—Continued

Date and number	Subject	Page
1929 Feb. 9 (46)	<i>From the Minister in Nicaragua (tel.)</i> Understanding that further amendments are contemplated; inability of Commander of the Special Service Squadron and Brigade Commander to see why satisfactory amendments should not be accepted; request for instructions.	613
Feb. 14 (48)	<i>From the Minister in Nicaragua (tel.)</i> Increasing evidence of President Moncada's intention to make the Guardia a partisan organization.	614
Feb. 14 (26)	<i>To the Minister in Nicaragua (tel.)</i> Nonobjection to acceptance of certain of the amendments if it will help to bring about passage of a satisfactory agreement; instructions to impress upon President Moncada the necessity of his fulfilling the obligations of the Tipitapa Agreement with regard to the establishment of the Guardia Nacional.	615
Feb. 15 (27)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to withhold action on telegram No. 26 of February 14 pending further instructions.	617
Feb. 16 (29)	<i>To the Minister in Nicaragua (tel.)</i> Information that, in view of telegram No. 48 of February 14, the Department cannot accept certain of the proposed amendments; instructions to emphasize to President Moncada that if he persists in his present attitude toward the Guardia he will make himself responsible for the disorder and turbulence which is bound to follow.	617
Feb. 18 (49)	<i>From the Minister in Nicaragua (tel.)</i> President Moncada's assurance that if the Department will accept a single amendment to article 5 he will have no difficulty in securing passage by Congress; request to be advised whether the Department can accept this amendment.	618
Feb. 20 (51)	<i>From the Minister in Nicaragua (tel.)</i> Passage by both Houses, February 19, of Guardia agreement with important amendments; declination of the President to withhold Executive approval pending receipt of the Department's views requested in telegram No. 49 of February 18.	619
Feb. 21 (52)	<i>From the Minister in Nicaragua (tel.)</i> Information that the amended agreement contains the modifications described in telegram No. 31 of January 26, with certain exceptions.	620
Feb. 21 (53)	<i>From the Minister in Nicaragua (tel.)</i> Signature by the President of the amended agreement.	620
Mar. 7 (68)	<i>From the Minister in Nicaragua (tel.)</i> Advice that when the Minister reminded the President that the new Guardia bill would not become effective until agreed to by the United States, the President replied he would act in accordance with that theory but that he maintained that technically the new agreement was law as soon as published; his desire to be informed of Department's attitude toward the amended bill.	621

NICARAGUA

DISINCLINATION OF THE UNITED STATES TO CONSENT TO AMENDMENTS TO THE
GUARDIA NACIONAL AGREEMENT—Continued

Date and number	Subject	Page
1929 Mar. 27 (45)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to confer with the Chief of the Guardia and report fully regarding the present situation of the Guardia and President Moncada's attitude toward it; assumption that President Moncada understands that the proposed amendments are still under consideration by the Department.	621
Mar. 30 (942)	<i>From the Minister in Nicaragua</i> Report on present situation of the Guardia and President Moncada's attitude toward it; amended Guardia Nacional agreement of February 21 (text printed).	622
May 29 (519)	<i>To the Chargé in Nicaragua</i> Objections to certain of the amendments; suggestion that many of the objections might adequately be dealt with by a proposed exchange of notes (texts printed).	630
June 6 (521)	<i>To the Chargé in Nicaragua</i> Further views with regard to objectionable features of article 5.	636
July 2 (1066)	<i>From the Chargé in Nicaragua</i> Suggestions for changes in the proposed notes as a consequence of completion of a study of the strength and cost of the Guardia; memorandum setting forth results of the study (text printed).	637
July 9 (1069)	<i>From the Chargé in Nicaragua</i> Transmittal of copy of articles for government of the Guardia prepared by the Chief of the Guardia and approved by President Moncada on July 5. (Note: Letter from the Assistant Secretary of State to Mr. Allen Dulles, December 5 (excerpt printed), advising that the Department had not yet acquiesced in the amendments but had in mind certain modifications.)	641

OBJECTIONS TO NICARAGUAN LAW GRANTING COURTESY RANK OF MINISTER TO
CERTAIN OFFICERS OF THE UNITED STATES NAVY AND MARINE CORPS

1929 Jan. 7 (13)	<i>From the Minister in Nicaragua (tel.)</i> Signature by the President of a law, effective January 4, giving the Commander of the Special Service Squadron and the Commander of the Marine Brigade the precedence accorded to ministers plenipotentiary on special mission; information that the law has aroused resentment among the other members of the Diplomatic Corps.	642
Jan. 9 (16)	<i>From the Minister in Nicaragua (tel.)</i> Understanding that at a meeting on January 8 the other members of the Diplomatic Corps decided not to make any protest but merely to transmit to their governments the Foreign Office note conveying the text of the law.	643
Jan. 10 (7)	<i>To the Minister in Nicaragua (tel.)</i> Advice that the Department regrets that such a law should have been passed; instructions to make it plain that the law was not enacted at the Department's instigation or with its approval.	643

NICARAGUA

OBJECTIONS TO NICARAGUAN LAW GRANTING COURTESY RANK OF MINISTER TO CERTAIN OFFICERS OF THE UNITED STATES NAVY AND MARINE CORPS—CON.

Date and number	Subject	Page
1929 Jan. 25 (30)	<i>From the Minister in Nicaragua (tel.)</i> Law of January 4 (text printed).	643
Feb. 2 (22)	<i>To the Minister in Nicaragua (tel.)</i> Information from the Secretary of the Navy that the present Brigade Commander and Chief of the Guardia Nacional are being replaced; advice that he agrees that passage of the law of January 4 was unfortunate, and that he is giving specific instructions to the new appointees regarding their relationship to the Legation and the Nicaraguan Government.	644
Apr. 24 (59)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to inform the Government, before leaving Managua, that in the Minister's absence the Chargé will take precedence over both the Commander of the Special Service Squadron and the Brigade Commander.	645
Apr. 29 (124)	<i>From the Minister in Nicaragua (tel.)</i> Observation that precedence of the Chargé over the admiral and the commanding general will also give him precedence over foreign chargés d'affaires if the latter take precedence after the admiral and general as provided in the recent law; opinion that this is likely to result in disagreeable incidents.	645
May 1 (61)	<i>To the Minister in Nicaragua (tel.)</i> Advice that the American Chargé will take precedence with respect to his colleagues in accordance with universal practice and the local protocol, and that the American military representatives will take precedence after him.	645
May 7 (982)	<i>From the Minister in Nicaragua</i> Information that the new Brigade Commander agrees with the Department's views and has requested that the Nicaraguan Government be informed that, in view of the opinion of the Navy Department that the special rank conferred by Congress applied only to the officers who occupied the positions at the time and not to their successors, he could not accept the honor conferred by the legislation; intention of President Moncada to allow the legislation to stand but to disregard it in practice.	646

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

1929 Feb. 13 (914)	<i>From the Minister in Nicaragua</i> Foreign Office note No. 64, February 12 (text printed), conveying request by the President of Nicaragua that the President of the United States designate an American citizen for appointment as president of the National Board of Elections.	646
Mar. 16 (937)	<i>From the Minister in Nicaragua</i> Transmittal of text of law of March 15 governing the holding of municipal elections; information that municipal elections will be held on the first Sunday of November and every two years thereafter.	648

NICARAGUA

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

Date and number	Subject	Page
1929 May 13 (71)	<i>To the Chargé in Nicaragua (tel.)</i> Information concerning the changes which would be required in the existing electoral law.	648
May 16 (138)	<i>From the Chargé in Nicaragua (tel.)</i> Concurrence of President Moncada in the Department's views, and his readiness to discuss the necessary changes.	649
June 28 (177)	<i>From the Chargé in Nicaragua (tel.)</i> Intention of President Moncada to appoint a Nicaraguan member as temporary president of the National Board of Elections with the understanding that he will vacate the position if the Department desires to name an American as president; concurrence of the Chargé in Foreign Minister's opinion that effective American supervision cannot be had under the Dodd law of 1923 and that American supervision is not desirable unless it is effective; information from the Foreign Minister that situation will be adequately corrected at the next session of Congress; preference of President Moncada for permanent supervision but, in the event the Department deems supervision impracticable for municipal elections, his desire for supervision in any event for congressional and presidential elections.	650
June 29 (178)	<i>From the Chargé in Nicaragua (tel.)</i> Acceptance by the Supreme Court of the resignation of General McCoy as president of the National Board of Elections and appointment of Dr. Albino Roman y Reyes as his successor. (Footnote: Memorandum by the Chief of the Division of Latin American Affairs (excerpt printed), advising that Dr. H. W. Dodds was unable to accept appointment as president of the National Board of Elections and to undertake the re-drafting which his original law appeared to require.)	650

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

1929 July 27 (111)	<i>To the Chargé in Nicaragua (tel.)</i> Understanding that President Moncada insists that the National Bank make a loan which the manager feels would be unsound business; instructions to investigate the matter and, if the facts are as stated, to point out to the President the danger of administering the bank on any but sound business principles and of interfering with the technical staff in such matters.	651
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NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN REORGANIZING THE FINANCES OF NICARAGUA—Continued

Date and number	Subject	Page
1929 July 29 (206)	<i>From the Chargé in Nicaragua (tel.)</i> Advice from President Moncada that it has never been his intention to do more than indicate his desire that the loan be made, provided it could be made on sound business principles.	652
Aug. 26 (217)	<i>From the Chargé in Nicaragua (tel.)</i> Information that at the regular meeting of the advisory board of the bank on August 14, President Moncada expressed opinion that refusal to grant the loan was unjust and announced that he would refrain from attending further meetings and would delegate his powers to the Minister of Hacienda.	652
Sept. 3 (123)	<i>To the Minister in Nicaragua (tel.)</i> Opinion of Guaranty Trust Co. and Seligman & Co. that they will have to withdraw their representatives from the directorate of the bank because of President Moncada's attitude; belief of the Department that withdrawal of the present management would make it difficult for the Nicaraguan Government to find an equally strong and reputable group which would be willing to take over the management; instructions to inform the President of these views.	653
Sept. 5 (222)	<i>From the Chargé in Nicaragua (tel.)</i> Hope of President Moncada that the present banking group will continue its management, but insistence that the Nicaraguan Government have more influence in shaping the policy; his opinion that the situation is the result of misunderstandings, and his desire that the subject be discussed in a conference between a representative of Nicaraguan Government, the bankers, and the Department.	654
Sept. 30 (228)	<i>From the Chargé in Nicaragua (tel.)</i> Information that Mr. Thomas Soley Guell has been appointed Nicaraguan representative for the proposed conference and will proceed with an official of the Department of Hacienda to the United States.	654
Sept. 30	<i>To Mr. Earl Bailie of J. & W. Seligman & Co.</i> Disinclination to urge Mr. Bailie and Mr. Loree to withhold their resignations as directors of the bank.	655
Oct. 7 (141)	<i>To the Chargé in Nicaragua (tel.)</i> Information that the American directors and officers of the bank and the Pacific Railway will present their resignations on October 9, that the J. G. White Management Corporation will at the same time give notice that it desires to terminate management of the railway properties, and that Brown Brothers and Seligman are advising the Corporation of Foreign Bondholders that they intend to withdraw as bankers under the Financial Plans.	655
Oct. 29 (258)	<i>From the Chargé in Nicaragua (tel.)</i> Advice from President Moncada that the White Corporation intends to terminate its management of the railway on November 9; his hope that the company will continue its management until the entire matter has been adjusted.	656

NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN REORGANIZING THE FINANCES OF NICARAGUA—Continued

Date and number	Subject	Page
1929 Oct. 31 (148)	<i>To the Chargé in Nicaragua (tel.)</i> Understanding that the White Corporation stated it would terminate its management November 9 or at such date prior to December 31 as the board of directors of the railway might decide; assumption that the Nicaraguan Government will have full opportunity to make other arrangements.	656
Nov. 1 (260)	<i>From the Chargé in Nicaragua (tel.)</i> Intention of President Moncada to proceed on the assumption that the White Corporation will continue its management until the end of the year.	657
Nov. 9 (268)	<i>From the Chargé in Nicaragua (tel.)</i> Issuance of Presidential decree, November 8, appointing the local manager of the railway as acting manager, with the obligation to deposit all funds of the railway in the National Bank to the order of the Government; advice that the manager is requesting instructions from the White Corporation.	657
Nov. 12 (159)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to point out to President Moncada that any disposition of the railway should be made in a legal manner through action by the board of directors and not by arbitrarily assuming control of the property and of the funds; advice that the board of directors will meet in a few days.	657
Nov. 13 (271)	<i>From the Chargé in Nicaragua (tel.)</i> Plan of President Moncada to instruct his representative to say that it was not intention of the Nicaraguan Government to proceed in an illegal manner when it issued the decree nor to terminate contract with the railway managers.	658
Nov. 22 (160)	<i>To the Chargé in Nicaragua (tel.)</i> Resignation of the American directors of the railway, November 13, because of the decree; understanding that the railway company is now being dissolved; expression of concern over these developments and opinion that the Department should have more definite information regarding the President's plans for the bank and the railway before asking the new bankers to spend further time and money in considering the situation. Instructions to take up the matter with the President.	658
Nov. 23 (274)	<i>From the Chargé in Nicaragua (tel.)</i> Intention of President Moncada to instruct the board of directors of the railway not to dissolve the company or take any further action with respect to the railway or the bank without the knowledge and prior approval of the Department.	659
Nov. 25 (275)	<i>From the Chargé in Nicaragua (tel.)</i> Information that the order from the Finance Minister directing that railway funds be placed to the order of the Government was later countermanded by President Moncada; suggestion that the new board of directors instruct the bank from time to time to place certain funds essential for operating needs at disposal of the Government or local railway officials.	660

NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN REORGANIZING THE FINANCES
OF NICARAGUA—Continued

Date and number	Subject	Page
1929 Dec. 3 (167)	<i>To the Chargé in Nicaragua (tel.)</i> Inability to assume the initiative in suggesting to President Moncada that he send another representative to the United States for the purpose of adjusting relations with the American banks or suggesting to the bankers that they reconsider their intention to withdraw.	661
Dec. 6 (283)	<i>From the Chargé in Nicaragua (tel.)</i> Intention of President Moncada to instruct his agents to cease negotiations with the bankers; his desire that the Secretary of State name a person to confer with the present banking group or a new group; and request that the Secretary ask the present group to remain beyond December 31 until definite arrangements have been made.	661
Dec. 9 (171)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to emphasize that the Department cannot endeavor to persuade the present bankers to continue their connection with Nicaraguan affairs, and that the new group which is preparing a plan should be heard; also, to state that the Department could not carry on negotiations on behalf of the Nicaraguan Government; advice that the bankers' proposals and recommendations could be submitted through the Nicaraguan Legation in Washington or through the American Legation in Managua; opinion that the Department would be willing to ask the present group not to withdraw definitely until a short time after December 31 if a delay proved necessary but feels that request can best be made when negotiations with the other bankers are further advanced.	662
Dec. 13 (285)	<i>From the Chargé in Nicaragua (tel.)</i> Desire of President Moncada that the bankers' proposals and recommendations be submitted through the American Legation.	663
Dec. 18 (173)	<i>To the Chargé in Nicaragua (tel.)</i> Preliminary agreement for the management of the bank, submitted by the new bankers (text printed); authorization to discuss the matter with President Moncada.	663
Dec. 20 (287)	<i>From the Chargé in Nicaragua (tel.)</i> Opinion that bankers' instructions to the manager to turn over management to the senior Nicaraguan officer on December 26 may result in a run on the bank; urgent suggestions that the Department request the bankers to stay on until the new group takes over.	665
Dec. 20 (174)	<i>To the Chargé in Nicaragua (tel.)</i> Information that, if President Moncada approves the preliminary agreement and it seems likely arrangements will be concluded in the near future, the Department would feel justified in requesting the present bankers to continue their management for the short time remaining until the bank is taken over by the new group; instructions to report President Moncada's views.	666
Dec. 20 (288)	<i>From the Chargé in Nicaragua (tel.)</i> Receipt from President Moncada of a counterproposal to the preliminary agreement.	666

NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN REORGANIZING THE FINANCES
OF NICARAGUA—Continued

Date and number	Subject	Page
1929 Dec. 21 (289)	<i>From the Chargé in Nicaragua (tel.)</i> Observation by President Moncada that his counterproposal was in the nature of a suggestion and that he would not insist on points unacceptable to the bankers or the Department; his request that the Secretary transmit request that the present bankers stay on temporarily.	667
Dec. 23 (175)	<i>To the Chargé in Nicaragua (tel.)</i> Suggestion that President Moncada instruct his representative to present the counterproposal or invite the bankers to send a representative to Nicaragua; information that the Department has informally stated to the present bankers that it would be helpful if they would continue their connection with the bank for a time.	668
Dec. 27 (292)	<i>From the Chargé in Nicaragua (tel.)</i> Telegram from President Moncada to his representative in the United States (text printed), directing him to present the counterproposal to the bankers and to sign the proposed preliminary agreement embodying such of the suggested changes as are acceptable to the bankers and meet the approval of the Department.	669
Dec. 27 (176)	<i>To the Chargé in Nicaragua (tel.)</i> Information that at meeting of board of directors of the bank on December 24 the Nicaraguan representatives made no request that the American directors continue after December 31 and that the bankers continued with their plans to turn over management to the two senior Nicaraguan officers on December 26.	670

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE
PROVISIONAL CLAIMS COMMISSION

1929 Feb. 1 (20)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to investigate and report plans of the Nicaraguan Government to reestablish the Claims Commission and to issue internal bonds which presumably will be used to pay the claims.	670
Feb. 5 (41)	<i>From the Minister in Nicaragua (tel.)</i> President Moncada's request for early appointment of the American member in order that the Claims Commission may resume work.	671
Feb. 8 (25)	<i>To the Minister in Nicaragua (tel.)</i> Readiness to consider selection of a suitable American representative when the time comes for the new commission to be created; instructions, in the meantime, to discuss with President Moncada the question of the reconvening of the Claims Commission and the preparation of new legislation if any seems necessary.	671

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ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE PROVISIONAL CLAIMS COMMISSION—Continued

Date and number	Subject	Page
1929 Feb. 16 (917)	<i>From the Minister in Nicaragua</i> Receipt of Foreign Office note stating intention to reconvene the Claims Commission established by law of December 3, 1926, and requesting designation of the American member; preference of President Moncada to reconvene the Commission by means of Executive decree after Congress has adjourned.	672
Apr. 22 (57)	<i>To the Minister in Nicaragua (tel.)</i> Information that the law of 1926 would require amendment to remove requirement that president of the Commission be the American member of the High Commission; necessity of further amendments; instructions to suggest to President Moncada the desirability of presenting the matter of necessary legislation to Congress at the forthcoming special session.	675
Apr. 23 (119)	<i>From the Minister in Nicaragua (tel.)</i> Recommendation that the whole matter of reconvening the Commission and settling claims be approved by the Legation, the High Commission, and the bankers before submittal to Congress, and that, on account of the short time remaining of the special session, it be submitted to the next regular session of Congress.	677
May 1 (128)	<i>From the Minister in Nicaragua (tel.)</i> Desire of President Moncada to create a temporary claims commission by Executive decree to study and classify claims, pending creation by Congress in its next session of a permanent commission with authority to adjudicate claims.	677
May 2 (63)	<i>To the Minister in Nicaragua (tel.)</i> Preference for immediate constitution of a commission authorized to settle the claims; instructions to inquire whether it would not be possible to submit the legislation to Congress as soon as prepared.	678
May 7 (131)	<i>From the Minister in Nicaragua (tel.)</i> Plan of President Moncada to constitute by Presidential decree a claims commission to receive and settle all the claims arising since October 25, 1925, as the result of the civil strife; information that the work of the commission will be revised and the amount of claims definitely fixed by another similar commission to be established by Congress in its next regular session.	678
May 21 (143)	<i>From the Chargé in Nicaragua (tel.)</i> Information that President Moncada is anxious to constitute the proposed claims commission and is only awaiting designation of the American member.	679
May 25 (80)	<i>To the Chargé in Nicaragua (tel.)</i> Advice that upon receipt of formal request from President Moncada the Department will be glad to consider designation of an American member; desire for copy of decree the President proposes to issue and for information as to procedure for appointing Nicaraguan members.	679

NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE
PROVISIONAL CLAIMS COMMISSION—Continued

Date and number	Subject	Page
1929 May 27 (146)	<i>From the Chargé in Nicaragua (tel.)</i> Information that there has been a misunderstanding and that President Moncada states it is and has been his intention to create the commission under authority of the law of 1926 and not under authority of a decree.	680
June 7 (156)	<i>From the Chargé in Nicaragua (tel.)</i> Plan of President Moncada to have the two Nicaraguan members appointed by the respective political parties.	680
June 7 (84)	<i>To the Chargé in Nicaragua (tel.)</i> Information that Department considers it impracticable for American member of the High Commission to serve on claims commission but is prepared to designate a suitable member if notwithstanding article 2 of the law of 1926 the Nicaraguan Government feels it can do so.	681
June 8 (157)	<i>From the Chargé in Nicaragua (tel.)</i> Recommendation against the Department's appearing as a party to loose interpretation of law in Nicaragua.	681
June 20 (171)	<i>From the Chargé in Nicaragua (tel.)</i> Request by the Minister of Hacienda to the directing boards of the Liberal and Conservative Parties for designation of five persons each from whom the President may appoint the representatives on the commission.	682
June 20 (92)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to explain to President Moncada why the Department is unwilling to accept the American member of the High Commission as president of the claims commission.	682
June 25 (174)	<i>From the Chargé in Nicaragua (tel.)</i> Information that, as it appears impossible at present to create the commission under the law of December 3, 1926, President Moncada proposes the creation by Executive decree of a provisional commission to receive and prepare claims for final adjudication by the claims commission to be created in accordance with a new law to be enacted by the next Congress; outline of the provisions to be contained in the decree.	682
July 2 (95)	<i>To the Chargé in Nicaragua (tel.)</i> Approval of President Moncada's proposal; readiness to nominate an American commissioner when opportunity has been had to examine the proposed decree; instructions to telegraph views with respect to present organization of the Conservative Party and the representative status of the <i>Junta Directiva</i> .	683
July 11 (1072)	<i>From the Chargé in Nicaragua</i> Transmittal of draft decree; request for Department's views.	684
July 12 (188)	<i>From the Chargé in Nicaragua (tel.)</i> Report on the discussions being carried on by the Conservative and Liberal Parties.	686
July 24 (201)	<i>From the Chargé in Nicaragua (tel.)</i> Intention of President Moncada to appoint Conservative member of the Commission from the five candidates who have been selected by the Conservative Party.	687

NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE PROVISIONAL CLAIMS COMMISSION—Continued

Date and number	Subject	Page
1929 July 27 (110)	<i>To the Chargé in Nicaragua (tel.)</i> Nonobjection to provisions of draft decree; proposal of Mr. J. S. Stanley as the American member of the Commission.	687
July 30 (207)	<i>From the Chargé in Nicaragua (tel.)</i> Receipt of formal notification that the Government will appoint Mr. Stanley as American member. (Footnote: Publication in <i>La Gaceta</i> , September 11, of the Presidential decrees naming members of the Commission.)	688
Aug. 2 (1100)	<i>From the Chargé in Nicaragua</i> Decree of July 30 establishing a Provisional Claims Commission (text printed).	688
Aug. 26 (553)	<i>To the Chargé in Nicaragua</i> Information that Mr. Stanley has been notified of his appointment and will depart for Nicaragua on September 5; instructions to advise the Department of the date on which peace is officially declared.	692
Oct. 11 (1187)	<i>From the Chargé in Nicaragua</i> Advice that Mr. Stanley took oath of office October 8 and that the Commission held its first meeting on October 9.	693
Oct. 29 (1210)	<i>From the Chargé in Nicaragua</i> Opinion of the Chargé and the American Commissioner that in view of the international character of the Commission and the international agreement in which it finds its authority, the Commission should be free to interpret the decree creating it and that it could not permit the Nicaraguan Government to instruct it in the manner set forth in reply to the Minister of Hacienda to an inquiry by the Commission. Information that claims may be submitted for a period of six months after the date of official declaration of peace, which has not yet been determined.	693
Nov. 14 (593)	<i>To the Chargé in Nicaragua</i> Information that the Commission's status and jurisdiction are determined solely by Nicaraguan legislation and that it does not appear inappropriate for the Commission to consult with the Nicaraguan Government regarding matters of procedure and policy. (Note: Legislation creating a permanent Claims Commission was passed by the Congress and signed by President Moncada on February 6, 1930.)	695

ASSISTANCE BY THE UNITED STATES IN MAKING SURVEYS FOR ROADS IN NICARAGUA

1929 June 13 (162)	<i>From the Chargé in Nicaragua (tel.)</i> Existence among Nicaraguans of strong impression that construction of good roads in the bandit regions would result in elimination of banditry; Chargé's opinion that President Moncada would offer no objection other than the difficulty of finding the necessary funds.	696
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NICARAGUA

ASSISTANCE BY THE UNITED STATES IN MAKING SURVEYS FOR ROADS IN
NICARAGUA—Continued

Date and number	Subject	Page
1929 June 13 (164)	<i>From the Chargé in Nicaragua (tel.)</i> Opinion in the Jinotega, Matagalpa, and Ocotal districts that road construction is the logical corrective measure for the bandit situation.	696
June 14 (89)	<i>To the Chargé in Nicaragua (tel.)</i> Request for report describing the roads it is contemplated to build, the number of persons who would be employed, and related features.	697
June 16 (167)	<i>From the Chargé in Nicaragua (tel.)</i> Need for good roads in every section of Nicaragua for economic development, but especially in the bandit regions for elimination of banditry; probability that every \$25,000 monthly set aside would cover cost of employing 1,000 men and paying all incidentals; suggestion that Marine commander might begin road construction at the same time with Marine funds; opinion that technical assistance by U. S. military engineers would be welcomed by President Moncada.	697
June 20 (91)	<i>To the Chargé in Nicaragua (tel.)</i> Nonobjection to discussion with President Moncada of the road building plan; advice that no funds are available to the Marine forces for road building in Nicaragua.	698
June 28 (176)	<i>From the Chargé in Nicaragua (tel.)</i> Request by President Moncada for detail of U. S. Government engineers for service in connection with the road building program.	699
July 9 (183)	<i>From the Chargé in Nicaragua (tel.)</i> Information from President Moncada that the engineers will be needed for at least six months and that he proposes to spend \$25,000 monthly for road construction in the bandit area.	699
July 24 (107)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to advise President Moncada that it might be most effective and economical for the Government of Nicaragua if Army or Navy engineers were assigned to duty with the Canal Survey forces or the Marine or Guardia forces.	700
July 26 (204)	<i>From the Chargé in Nicaragua (tel.)</i> Advice that President Moncada will be grateful for either Army or Navy engineers.	700
Aug. 1 (115)	<i>To the Chargé in Nicaragua (tel.)</i> Willingness of the Navy Department to assign Comdr. Ralph M. Warfield and Lt. Rufus C. Harding to duty with the Guardia Nacional for road construction work.	701
Sept. 11 (126)	<i>To the Chargé in Nicaragua (tel.)</i> Suggestion that, in view of the existing financial situation, Commander Warfield not propose any large road construction program to President Moncada without giving the Department an opportunity to consider it and the manner in which funds are to be obtained. Desire for submittal of preliminary report.	701

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN MAKING SURVEYS FOR ROADS IN NICARAGUA—Continued

Date and number	Subject	Page
1929 Sept. 30 (239)	<i>From the Chargé in Nicaragua (tel.)</i> Expectation of forwarding Commander Warfield's preliminary report in time for its consideration at the approaching conference regarding Nicaraguan finances.	702
Oct. 5 (1180)	<i>From the Chargé in Nicaragua</i> Preliminary report by Commander Warfield (text printed).	702

NICARAGUAN CANAL SURVEY

1929 June 12 (21)	<i>To the Minister in Costa Rica (tel.)</i> Instructions to request permission for U. S. Engineer troops to enter Costa Rican territory when necessary in connection with proposed investigation and survey of a canal route through Nicaragua.	703
June 12 (88)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to request consent for Engineer troops to take such stations as they may select and conduct such operations as may be necessary in connection with the canal survey.	704
June 13 (163)	<i>From the Chargé in Nicaragua (tel.)</i> Foreign Office note (text printed) granting the requested permission.	704
June 19 (43)	<i>From the Minister in Costa Rica (tel.)</i> Foreign Office note (text printed), granting the permission requested. (Note: Information that field work on the canal survey began on August 29, 1929, and, except for a continuation of the hydrographic and meteorological work, was finished before July 1, 1931.)	705

NORWAY

ARBITRATION TREATY BETWEEN THE UNITED STATES AND NORWAY, SIGNED FEBRUARY 20, 1929

1928 Mar. 10 (1)	<i>To the Minister in Norway (tel.)</i> Information that draft treaty of arbitration extending the policy of arbitration enunciated in the treaty of April 4, 1908, has been handed to the Norwegian Minister.	706
Apr. 27	<i>From the Norwegian Minister</i> Desire of the Norwegian Government for certain modifications in draft treaty.	706
May 24	<i>To the Norwegian Minister</i> Hope that the Norwegian Government will accept the treaty in the form proposed in order that it may be uniform with other arbitration agreements already entered into by the United States.	707

NORWAY

ARBITRATION TREATY BETWEEN THE UNITED STATES AND NORWAY, SIGNED
FEBRUARY 20, 1929—Continued

Date and number	Subject	Page
1928 July 2	<i>From the Norwegian Minister</i> Willingness to accept, in principle, the draft treaty proposed on March 10 as a basis for negotiation of a new treaty; further observations on modification of phraseology.	707
Nov. 26	<i>To the Norwegian Minister</i> Explanation of the interpretation of the provisions for which modifications were suggested.	709
1929 Jan. 4	<i>From the Norwegian Minister</i> Hope that suggested rewording of a portion of article I will be acceptable.	710
Feb. 20	<i>Treaty Between the United States of America and Norway</i> Enlarging the scope and obligations of the arbitration convention of April 4, 1908.	711

ANNEXATION BY NORWAY OF THE ISLAND OF JAN MAYEN

1929 May 9	<i>From the Norwegian Minister</i> Notification that by a Royal decree of May 8 the Arctic island of Jan Mayen was placed under the sovereignty of Norway.	713
June 28	<i>To the Norwegian Minister</i> Advice that the contents of note of May 9 will be communicated to the appropriate departments of the Government for their information and guidance; expression of confidence that the Norwegian Government will not fail to respect the rights of Mr. Hagbard D. I. Ekerold and the Polarfront Co.	713
Aug. 7	<i>From the Norwegian Chargé</i> Information that the occupation of Jan Mayen is in no way intended to cause changes in the rights which exist according to civil law; reference to previous correspondence between the two Governments concerning the Polarfront Co.	714
1930 Mar. 28 (1614)	<i>From the Minister in Norway</i> Enactment by the Storting of a law defining more clearly the status of Jan Mayen (text printed).	714

ASSERTION BY NORWAY TO SOVEREIGNTY OVER BOUVET ISLAND AND OTHER
SPECIFIED REGIONS IN THE ANTARCTIC

1928 Nov. 21 (3189)	<i>From the Ambassador in Great Britain</i> Decision of the British Government to waive claim to Bouvet Island in the South Atlantic in favor of Norway.	715
Dec. 12	<i>From the Norwegian Minister</i> Information that Bouvet Island was placed under the sovereignty of Norway by Royal decree of January 23.	716

NORWAY

ASSERTION BY NORWAY TO SOVEREIGNTY OVER BOUVET ISLAND AND OTHER SPECIFIED REGIONS IN THE ANTARCTIC—Continued

Date and number	Subject	Page
1929 Jan. 28	<i>To the Secretary of War</i> Inquiry whether any American interests might be jeopardized by recognition of Norway's action in placing Bouvet Island under her sovereignty. (Similar communication to the Secretary of the Navy.)	716
Feb. 5	<i>From the Acting Secretary of War</i> Information that the War Department knows of no American interest that would be jeopardized by recognition of Norway's action. (Footnote: Receipt of a similar reply from the Navy Department, February 1.)	717
Apr. 15	<i>From the Norwegian Minister</i> Assumption that the U. S. Government does not intend to base possible claims to sovereignty or claims of priority to sovereignty in the South Polar regions upon the flights of the Byrd Antarctic Expedition; observation that the Norwegian Government considers that the discovery and annexation by Norwegian explorers of certain specific territories constitute a valid basis for a claim of priority to acquire such territories when the requirements of international law have been fulfilled.	717
May 13	<i>To the Norwegian Minister</i> Advice that the information contained in note of December 12, 1928, has been transmitted to the appropriate authorities of the Government for their information.	718
Dec. 7	<i>To the Norwegian Minister</i> Acknowledgment of note of April 15; observation that reference to claim of priority to sovereignty over certain territories has been noted but that no comment by the Department would seem to be called for at the present time.	718

PANAMA

REQUEST BY THE GOVERNMENT OF PANAMA THAT THE UNPERFECTED TREATY OF JULY 28, 1926, BE RECONSIDERED IN ITS ENTIRETY

1929 Apr. 22 (1998)	<i>From the Minister in Panama</i> Request for instructions concerning reply to be made to Foreign Office note of April 11 which protests sales made by the Cristobal commissary to three officers of an English ship.	720
May 13 (33)	<i>To the Minister in Panama (tel.)</i> Instructions to reply that there is nothing in the treaties now in force to prevent the U. S. Government from making sales at the Canal commissaries to anyone to whom it chooses to extend the privilege of purchasing there, although it has been U. S. policy to restrict the privilege to certain classes of persons, and to state that the matter remains entirely within jurisdiction of the U. S. Government so long as the treaty signed July 28, 1926, remains unratified.	721

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PANAMA

REQUEST BY THE GOVERNMENT OF PANAMA THAT THE UNPERFECTED TREATY OF JULY 28, 1926, BE RECONSIDERED IN ITS ENTIRETY—Continued

Date and number	Subject	Page
1929 May 20 (2027)	<i>From the Chargé in Panama</i> Foreign Office note of May 16 (text printed), stating that such sales are prohibited by article 13 of the treaty of 1903 and pointing out that the treaty signed July 28, 1926, should not be considered as pending ratification in its present form, inasmuch as the Department of State has not replied to the most recent Panaman representations concerning its provisions.	721
July 16 (767)	<i>To the Chargé in Panama</i> Note for the Foreign Office (text printed), observing that U. S. position with regard to exercise of jurisdiction over the Canal Zone under the treaty of 1903 was clearly set out in U. S. notes of October 24, 1904, and October 15, 1923, and stating that many of the Panaman Government's apprehensions regarding the treaty of July 28, 1926, are due to a misunderstanding of the intent of the treaty and could be set at rest by an exchange of notes if Panama so desired.	723
Sept. 21 (3062)	<i>From the Minister in Panama</i> Foreign Office note No. 1481, September 17 (text printed), reiterating nonconcurrence in thesis that the commissaries may sell without restriction, and stating desire that the treaty of July 28, 1926, be reconsidered in its entirety.	726
Oct. 14 (809)	<i>To the Minister in Panama</i> Note for the Foreign Office (text printed), stating willingness to enter upon new discussions of the treaty of July 28, 1926, and to consider any proposals for a new treaty which the Panaman Government may wish to present.	727

AGREEMENT BETWEEN THE UNITED STATES AND PANAMA FOR REGULATIONS GOVERNING COMMERCIAL AVIATION IN PANAMA

1929 Apr. 22 (1999)	<i>From the Minister in Panama</i> Information that notes were exchanged with the Foreign Minister effecting an agreement for regulations governing commercial aviation in Panama; copy of the American note (text printed).	728
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RESERVATION BY THE UNITED STATES OF ITS RIGHT OF CONTROL OF RADIO COMMUNICATION THROUGHOUT PANAMA

1929 June 4 (36)	<i>To the Chargé in Panama (tel.)</i> Note for the Foreign Office (text printed), observing, in connection with concession recently granted to the Panama Corporation, Ltd., which contains a provision authorizing the company to establish radio stations, that no final reply has been received to the Legation's note of February 16, 1927, which referred to a similar provision in the Tonosí Fruit Co. concession and stating that the Panaman Government should make it clear that previous consent of U. S. Government to such establishment is required by the Panaman decree of August 29, 1914.	730
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PANAMA

RESERVATION BY THE UNITED STATES OF ITS RIGHT OF CONTROL OF RADIO COMMUNICATION THROUGHOUT PANAMA—Continued

Date and number	Subject	Page
1929 June 8 (2048)	<i>From the Chargé in Panama</i> Report of conversation with the Foreign Minister in which he stated that the question of radiotelegraphy would be taken up at the next Cabinet Council.	731
June 24 (2066)	<i>From the Chargé in Panama</i> Foreign Office note No. 1096, June 21 (text printed), stating that the Tonosi Fruit Co. and the Panama Corporation concessions must necessarily be understood to be subject to the decree of 1914, as must a radio station which the Panaman Government contemplates establishing on Coiba Island.	732
Sept. 14 (791)	<i>To the Minister in Panama</i> Instructions to address note to the Panaman Government asking that the Legation be given immediate notice in the event the Panama Corporation proposes to take any action under article of concession respecting establishment of radio stations; also to report any information from American military or naval authorities concerning the radio station proposed to be erected on Coiba Island.	735
Sept. 26 (3066)	<i>From the Minister in Panama</i> Information that the military and naval authorities are presumably awaiting a request from the Department of State, through the War and Navy Departments, before submitting their views regarding the proposed Coiba Island station.	737

PERSIA

ATTITUDE OF THE DEPARTMENT OF STATE WITH RESPECT TO THE PERSIAN NATIONALITY LAW OF 1929

1929 Aug. 26 (682)	<i>To the Chargé in Persia</i> Comments on the proposed new Persian nationality law.	739
Oct. 30 (964)	<i>From the Chargé in Persia</i> Report of discussions with the Foreign Office with regard to interpretation of the nationality law passed by the Medjlis on September 7 and signed by the Shah on September 15; probability that law will be amended as a result of verbal and written representations made by the various Legations. (Footnote: Information from the Minister in despatch No. 130, August 1, 1930, that Legation's note of October 15 requesting statement of Persian attitude toward dual nationality had not yet been acknowledged, but that he had learned that the Government would decide on the matter by virtue of a special law but would not take steps to do so at the present time.)	741

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PORTUGAL

ARBITRATION TREATY BETWEEN THE UNITED STATES AND PORTUGAL, SIGNED
MARCH 1, 1929

Date and number	Subject	Page
1929 Mar. 1	<p><i>Treaty Between the United States of America and Portugal</i> Enlarging the scope and obligations of the arbitration convention of April 6, 1908. (Footnote: Information that a draft of this treaty had been submitted to the Portuguese Legation on March 21, 1928, and had been accepted without change.)</p>	745

RUMANIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES
AND RUMANIA, SIGNED MARCH 21, 1929

1928 Apr. 21 (17)	<p><i>To the Chargé in Rumania (tel.)</i> Information that draft treaties of arbitration and conciliation have been handed to the Rumanian Minister.</p>	747
Aug. 10 (30)	<p><i>To the Chargé in Rumania (tel.)</i> Information that Rumanian Minister has stated his Government's willingness to negotiate the proposed treaties and hopes to be able to sign promptly. Instructions to inform Foreign Minister of readiness to cable texts of Rumanian full powers to Washington when received.</p>	747
Aug. 11 (33)	<p><i>From the Chargé in Rumania (tel.)</i> Advice from the Foreign Minister that full powers cannot be granted until reply has been received to minor differences in the arbitration treaty which are being submitted to the Department of State by the Minister at Washington.</p>	748
Sept. 7	<p><i>Memorandum by the Assistant Chief of the Treaty Division</i> Conversation with the Secretary of the Rumanian Legation concerning his proposal that the arbitration treaty provide specifically that its provisions concern only differences between governments, and not private disputes between individuals.</p>	748
Nov. 13	<p><i>Memorandum by the Assistant Chief of the Treaty Division</i> Conversation with the Rumanian Minister in which he stated that his Government had instructed him to insist on one point only—limitation of subject matter of arbitration to differences between governments—but observed that the new Rumanian Government might take a different view in the matter.</p>	750
1929 Mar. 21	<p><i>Treaty Between the United States of America and Rumania</i> Of arbitration.</p>	751
Mar. 21	<p><i>Treaty Between the United States of America and Rumania</i> Of conciliation.</p>	753

RUMANIA

PROPOSAL BY THE UNITED STATES TO CONCLUDE A COMMERCIAL TREATY FOLLOWING DENUNCIATION BY RUMANIA OF THE AGREEMENT OF FEBRUARY 26, 1926

Date and number	Subject	Page
1929 Nov. 27 (31)	<i>From the Minister in Rumania (tel.)</i> Denunciation by Rumania, effective March 1, 1930, of the provisional commercial agreement of February 26, 1926.	755
Dec. 11 (19)	<i>To the Minister in Rumania (tel.)</i> Instructions to propose immediate initiation of negotiations for a treaty of commerce and navigation based on articles 7 to 11 of the U. S.-German commercial treaty of 1923.	755
Dec. 20 (33)	<i>From the Minister in Rumania (tel.)</i> Foreign Office acceptance of proposal to negotiate commercial treaty and desire that draft treaty be submitted immediately; understanding that, in case of necessity, the time can be extended six months after March 1 for those countries which have actually begun negotiations.	756

SETTLEMENT OF THE CLAIM OF THE STANDARD OIL COMPANY OF NEW JERSEY ARISING OUT OF THE DESTRUCTION OF PROPERTY IN 1916

1929 July 6 (237)	<i>From the Minister in Rumania</i> Information that an agreement was signed in June by the Rumanian Government and the Romano-Americana, a subsidiary of the Standard Oil Co. of New Jersey, as to the amount and method of payment for the settlement of claim arising out of destruction of property of the Romano-Americana in 1916; possibility that the Government may now be able to make the cash payment which was due in June.	757
Aug. 28 (265)	<i>From the Chargé in Rumania</i> Receipt by the Romano-Americana, August 24 and 26, of the cash payment and balance of the claim in Government bonds.	758

SIAM

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND SIAM

1928 July 31	<i>To the Siamese Minister</i> Transmittal of draft treaties of arbitration and conciliation.	759
1929 Mar. 26 (1611/71)	<i>From the Siamese Chargé</i> Counterproposal for negotiation of a single treaty of arbitration to provide for the settlement of all differences not settled by diplomacy or by mutual agreement; willingness, however, if this is unacceptable, to accept the U. S. draft treaties as a basis for negotiation.	760
June 4	<i>To the Siamese Minister</i> Preference for negotiation on the basis of the two draft treaties.	761

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SIAM

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND SIAM—Continued

Date and number	Subject	Page
1929 Undated [Rec'd Nov. 30]	<p data-bbox="216 374 492 399"><i>From the Siamese Legation</i></p> <p data-bbox="216 399 874 482">Expression of views concerning Siamese counterdraft of arbitration treaty submitted with this <i>aide-mémoire</i>; information that no counterdraft of the conciliation treaty is submitted.</p> <p data-bbox="216 482 874 661">(Note: Treaty Division memorandum of July 14, 1930 (excerpt printed), stating that negotiations have remained in abeyance for more than a year, because the Department believes it unwise to sign a new treaty based on the general treaty of inter-American arbitration, as suggested by Siam, until that treaty has been approved by the Senate; information that the inter-American arbitration treaty was not approved by the Senate until April 1, 1935.)</p>	762

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY

1929 Jan. 9 (1125)	<p data-bbox="216 869 487 894"><i>From the Chargé in Spain</i></p> <p data-bbox="216 894 874 1048">Refusal of General Primo de Rivera to accept French Ambassador's proposal of November 30, 1928, for arbitration of questions arising out of expropriation of foreign petroleum interests by the Spanish petroleum monopoly; opinion of the French Ambassador that the Spanish Government is sure to make concessions in the end if continued pressure is applied by the French and U. S. Governments.</p>	768
Jan. 14 (1)	<p data-bbox="216 1060 511 1085"><i>To the Chargé in Spain (tel.)</i></p> <p data-bbox="216 1085 874 1147">From the Ambassador: Inquiry concerning a report that an agreement had been reached with French interests and a payment made to them.</p>	770
Jan. 15 (1)	<p data-bbox="216 1159 539 1183"><i>From the Chargé in Spain (tel.)</i></p> <p data-bbox="216 1183 874 1333">For the Ambassador: Information that no agreement has yet been reached by French or American petroleum interests but that British Shell interests have accepted settlement; possibility that report may refer to Standard Oil subsidiary, Sociedad Compras y Fletamentos, which has accepted offer of payment in monopoly shares now selling at a premium of 50 percent.</p>	770
Feb. 7 (1146)	<p data-bbox="216 1345 487 1369"><i>From the Chargé in Spain</i></p> <p data-bbox="216 1369 874 1541">Information that the Foreign Office has replied to the Embassy's representations of December 3, 1928, and quotes text of Spanish communication to the French Ambassador, January 16, 1929, in which right to appeal to arbitration and right to additional compensation for goodwill and going concern value were denied; also, that the French Ambassador still believes that continued pressure may induce the Government to give more favorable treatment to the interests involved.</p>	771

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

Date and number	Subject	Page
1929 Feb. 14 (516)	<i>To the Chargé in Spain</i> Desire of the Standard Oil Co. of New Jersey for energetic action by the Embassy in behalf of their properties in Spain; authorization for further representations when the political situation warrants action.	773
Feb. 25 (7)	<i>To the Chargé in Spain (tel.)</i> Receipt by the Standard Oil Co. of telegram from representative in Paris, February 21 (text printed), reporting French intention to take retaliatory action against Spain by applying charge for identity cards for Spanish subjects; instructions to investigate and report.	775
Mar. 1 (14)	<i>From the Chargé in Spain (tel.)</i> Information that the idea of retaliatory action has been abandoned by the French Government and that, as a result of further efforts by the French Ambassador, Primo de Rivera has agreed to reexamine the French claims in the Council of Ministers; advisability of postponing any further action until the outcome of the French note is known.	776
Apr. 12 (1198)	<i>From the Ambassador in Spain</i> Advice that the more important negotiations are now being conducted between the French Foreign Office and the Spanish Ambassador in Paris, but that there are as yet no definite developments; report of conversation with the Finance Minister, April 5, in the interest of immediate issuance of monopoly shares provided in the Sociedad Compras y Fletamentos settlement, and with regard to the valuation of the Standard Oil Co. subsidiary, Babel and Nervion, recently resubmitted by the French Ambassador.	777
Apr. 15 (14)	<i>To the Ambassador in Spain (tel.)</i> Opinion of Standard Oil representative in Paris that the moment is opportune for the Embassy in Spain to press for settlement of the Babel and Nervion claim; authorization for such action as may be deemed appropriate.	780
May 2 (27)	<i>From the Ambassador in Spain (tel.)</i> Decision of Babel and Nervion to accept the latest Spanish offer of settlement made through the French Foreign Office; advice that the settlement amounts to a payment of approximately 25 percent for goodwill but that the two French companies are holding out for an additional 5 percent; possibility that the Spanish Government may agree to a separate settlement with Babel and Nervion.	781
May 9 (1227)	<i>From the Ambassador in Spain</i> Insistence of the French Foreign Office that American and French claims be dealt with as a unit; information that the most recent development is notification by the three companies that they will accept a round sum of 55,000,000 pesetas; possibility that the Spanish Government may decide to meet this figure in order to settle the matter once and for all.	781
June 15 (33)	<i>To the Ambassador in Spain (tel.)</i> Instructions to report final action taken by Standard Oil representative in Spain regarding the Spanish offer to pay approximately \$4,396,000 at the current rate of exchange over a period of six months.	784

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

Date and number	Subject	Page
1929 June 21 (1278)	<i>From the Ambassador in Spain</i> Information that the Spanish Government made an offer of 53,500,000 pesetas which all three companies decided to accept in principle, but that definite settlement is being delayed pending arrival at solution for converting payment in pesetas into dollars or francs; intention to submit to Finance Minister American interests' plan for marketing their share over a period of three to six months.	784
July 15 (1302)	<i>From the Chargé in Spain</i> Acceptance by the Finance Minister of plan of payment proposed by American interests; understanding that the French companies have decided to accept a similar method of settlement. (Footnote: Information from the Chargé in despatch No. 1315, July 29, that the Finance Minister had issued a Royal order dated July 19 making these arrangements effective.)	787

SPANISH REPRESENTATIONS WITH REGARD TO ALLEGED GRIEVANCES ARISING FROM DIFFICULTIES ENCOUNTERED IN EXPORT TRADE WITH THE UNITED STATES

1929 Apr. 26 (24)	<i>From the Ambassador in Spain (tel.)</i> Inquiry as to the status of various Spanish commercial grievances which have been brought to the attention of the Department.	788
Apr. 30 (1215)	<i>From the Ambassador in Spain</i> Note No. 83, April 26, from the President of the Council of Ministers (text printed), referring to grievances against U. S. customs and other restrictions applied to Spanish products and suggesting that the Spanish Government might be obliged to denounce the existing commercial <i>modus vivendi</i> .	789
May 3 (545)	<i>To the Ambassador in Spain</i> Information concerning the present status of the various Spanish grievances which have been brought to the attention of the Department.	791
May 3 (547)	<i>To the Ambassador in Spain</i> Advice that quarantine action which has been taken in the past for the protection of American produce has not been confined to action against foreign countries but has been taken just as drastically with respect to U. S. territorial possessions and also between the several States; letter from the Secretary of Agriculture, June 17, 1927 (excerpt printed), stating that there has been no discrimination against the entrance of Spanish fruit as compared with Argentine fruit.	794
May 18 (26)	<i>To the Ambassador in Spain (tel.)</i> Reply for the Foreign Office (text printed), stating that note of April 26 is receiving careful consideration and suggesting that informal discussions cannot fail to clarify the situation; instructions to discuss the matter on the basis of Department's instruction of May 3.	795

SPAIN

ARRANGEMENT BETWEEN THE UNITED STATES AND SPAIN FOR THE SETTLEMENT
OF RECIPROCAL CLAIMS

Date and number	Subject	Page
1927 Aug. 24	<i>To the Spanish Chargé</i> Suggestions concerning an arrangement for the informal consideration of such claims as either Government may desire to bring to the attention of the other.	796
1929 May 13	<i>To the Spanish Ambassador</i> Inquiry whether the Spanish Government concurs in the arrangement proposed in note of August 24, 1927.	797
June 20 (80/23)	<i>From the Spanish Ambassador</i> Information that the Spanish Government agrees to begin a study of the reciprocal claims.	798

RECIPROCAL EXEMPTION FROM TAXATION AND CUSTOMS DUTIES ON MOTOR
VEHICLES BELONGING TO CONSULAR OFFICERS

1928 Aug. 16 (439)	<i>To the Ambassador in Spain</i> Instructions to request exemption from taxation on motor vehicles belonging to American consular officers in Spain.	798
Sept. 20 (1031)	<i>From the Ambassador in Spain</i> Refusal by the Foreign Office of the Embassy's request, on the ground that Wisconsin, Indiana, Minnesota, Pennsylvania, the Philippine Islands, and Puerto Rico refuse a like exemption to Spanish consular officers.	799
1929 May ; (544)	<i>To the Ambassador in Spain</i> Information that exemption is granted to Spanish consular officers in the Philippines and Puerto Rico, that Pennsylvania grants exemption from motor vehicle registration fee, and that in the event Spanish consular officers should be stationed in Wisconsin, Indiana, or Minnesota they will be exempt from automobile taxation; instructions to renew request for exemption of American consular officers in Spain.	800
June 18 (1276)	<i>From the Ambassador in Spain</i> Foreign Office note No. 108, June 10, advising that if the U. S. Government concedes exemption in all the States, exemption will be conceded in Spain to American consular officers, and requesting to be informed whether the registration fee in Pennsylvania includes all automobile taxes, and Embassy's reply No. 763, June 18, stating that the registration fee is the only tax imposed on automobiles in Pennsylvania (texts printed).	801

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TURKEY

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND
TURKEY, SIGNED OCTOBER 1, 1929

Date and number	Subject	Page
1929 Feb. 25 (676)	<i>From the Ambassador in Turkey</i> Willingness of Foreign Minister, in view of inability to accede to Ambassador's proposal for conclusion of agreement by means of exchange of notes of indefinite duration providing for mutual unconditional most-favored-nation treatment in customs matters, to enter into a simple treaty covering such treatment, and, by means of exchange of notes, to extend until January 1, 1930, the present commercial <i>modus vivendi</i> due to expire on April 10, 1929. Request for instructions.	803
Mar. 18 (15)	<i>To the Ambassador in Turkey (tel.)</i> Instructions to inform the Foreign Minister that proposal for negotiation of a commercial treaty is acceptable, on the understanding that the period of most-favored-nation treatment in customs matters be extended as suggested.	809
Mar. 24 (17)	<i>From the Ambassador in Turkey (tel.)</i> Proposal by the Foreign Minister that a new commercial <i>modus vivendi</i> to run for one calendar year from April 10, 1929, be concluded on April 4 by exchange of notes similar to the notes exchanged May 19, 1928, with certain modifications; request for instructions.	810
Mar. 27 (17)	<i>To the Ambassador in Turkey (tel.)</i> Instructions to proceed with the proposed exchange of notes.	812
Apr. 3 (22)	<i>From the Ambassador in Turkey (tel.)</i> Information that the Foreign Office has altered phrase "convention de commerce" to read "convention de commerce et de navigation"; opinion that it would be desirable to accept change and proceed to exchange of notes.	812
Apr. 3 (1)	<i>To the Ambassador in Turkey (tel.)</i> Nonobjection to reference to convention of commerce and navigation.	813
Apr. 4 (2)	<i>From the Ambassador in Turkey (tel.)</i> Confirmation by the Foreign Minister of the Ambassador's supposition that proposed alteration is merely to conform to the texts of notes to be exchanged with other powers.	813
Apr. 9 (24)	<i>From the Ambassador in Turkey (tel.)</i> Information that the notes were exchanged on April 8.	814
Apr. 10 (706)	<i>From the Ambassador in Turkey</i> Observation that the note signed by the Foreign Minister contains last-minute alterations in phraseology which, however, do not modify meaning or intention of the original draft; request for instructions. Notes exchanged April 8 (texts printed).	814
Apr. 27 (727)	<i>From the Ambassador in Turkey</i> Receipt of Foreign Office note advising names of the Turkish representatives to negotiate the proposed commercial treaty and requesting names of U. S. representatives.	819
May 17 (146)	<i>To the Chargé in Turkey</i> Opinion that the notes of April 8 adequately serve the purpose and that no fundamental objection is seen to the alterations in phraseology in the Turkish note.	820

TURKEY

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND
TURKEY, SIGNED OCTOBER 1, 1929—Continued

Date and number	Subject	Page
1929 June 6 (37)	<i>From the Ambassador in Turkey (tel.)</i> Desire of the Foreign Minister and treaty delegation that there be included in the proposed commercial treaty a provision for the mutual application of most-favored-nation treatment to navigation as well as to customs matters; request for instructions.	820
Aug. 6 (167)	<i>To the Ambassador in Turkey</i> Advice that Department has decided to accommodate the Turkish Government in its desire for inclusion of navigation; short draft treaty of commerce and navigation for presentation to the Turkish Government (text printed); transmittal of full powers to sign such a treaty.	821
Sept. 8 (5)	<i>From the Ambassador in Turkey (tel.)</i> Information that the Ambassador has begun treaty negotiations and that proposed Turkish alterations appear to be chiefly clarifications rather than matters of principle.	825
Sept. 11 (54)	<i>From the Ambassador in Turkey (tel.)</i> Suggestion that some of the points at issue might be satisfactorily clarified in a procès verbal, protocol, or exchange of notes if the Department would prefer; information in detail concerning the alterations proposed by the Turkish delegation; request to be advised where ratifications should be exchanged.	825
Sept. 17 (55)	<i>From the Ambassador in Turkey (tel.)</i> Request by Turkish delegation that precise meaning of a phrase in article 1 be defined in a protocol.	829
Sept. 21 (48)	<i>To the Ambassador in Turkey (tel.)</i> Views on changes proposed by the Turkish delegation; non-objection to exchange of ratifications at Angora; hope that Turkish delegation will not insist on the protocol mentioned in telegram No. 55 of September 17.	830
Sept. 24 (6)	<i>From the Ambassador in Turkey (tel.)</i> Turkish views on the Department's proposals contained in telegram No. 48 of September 21.	832
Sept. 25 (9)	<i>From the Ambassador in Turkey (tel.)</i> Amplification of telegram No. 6 of September 24; desire of Turkish delegation that the Ambassador make declarations regarding certain of the points requiring interpretation, to be recorded in the minutes of the final plenary session.	833
Sept. 27 (49)	<i>To the Ambassador in Turkey (tel.)</i> Views on the latest Turkish suggestions; nonobjection to declarations in the minutes of the final plenary session.	835
Sept. 28 (12)	<i>From the Ambassador in Turkey (tel.)</i> Information that if the complete assent of the Turkish delegation to the treaty and minutes as finally approved in Department's telegram No. 49 of September 27, can be obtained, the Ambassador will sign the treaty on October 1.	836
Sept. 30 (52)	<i>To the Ambassador in Turkey (tel.)</i> Department's understanding of what article 3 (b) (2) now contains.	837

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TURKEY

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND
TURKEY, SIGNED OCTOBER 1, 1929—Continued

Date and number	Subject	Page
1929 Oct. 1 (14)	<i>From the Ambassador in Turkey (tel.)</i> Information that the treaty was signed in precise accord with the Department's instructions.	837
Oct. 1	<i>Treaty Between the United States of America and Turkey</i> Of commerce and navigation.	838
Undated	<i>Minutes of the Meeting of October 1, 1929, Held at Angora</i> Declarations by the American and Turkish delegations regarding interpretation of the treaty. (Note: Information that on April 8, 1930, notes were exchanged to renew the commercial <i>modus vivendi</i> from April 10, 1930, until the date of exchange of ratifications of the treaty; also, that the exchange of ratifications took place on April 22, 1930.)	841

TURKISH DECLARATION TO THE UNITED STATES RESPECTING THE TURCO-SOVIET
PROTOCOL OF DECEMBER 17, 1929

1929 Dec. 20 (903)	<i>From the Ambassador in Turkey</i> Information from the Foreign Office that the Turkish Ambassador in Washington has been instructed to read to the Secretary of State an explanatory declaration (text printed) respecting the protocol signed December 17 renewing the Turco-Soviet treaty of friendship and neutrality.	842
1930 Jan. 7 (194)	<i>To the Ambassador in Turkey</i> Copy of declaration made by the Turkish Ambassador to the Secretary of State on January 2 (text printed); observation that the text differs in some particulars from the text furnished the American Ambassador. (Footnote: Information that in despatch No. 939, of February 6 (excerpt printed), the Ambassador in Turkey stated opinion that the protocol could not in any way affect Turco-American relations or interfere with any treaties which might be negotiated between the two countries in the future.)	844

UNION OF SOUTH AFRICA

ESTABLISHMENT OF DIRECT DIPLOMATIC RELATIONS BETWEEN THE UNITED
STATES AND THE UNION OF SOUTH AFRICA

1928 Dec. 27 (610)	<i>From the British Ambassador</i> Inquiry whether the U. S. Government would agree in principle to the establishment of a Legation in Washington to handle the affairs of the Union of South Africa.	846
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UNION OF SOUTH AFRICA

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July 29 (424)	<i>From the British Ambassador</i> Advice that it is desired to establish a Legation of South Africa in Washington.	847
July 29 (425)	<i>From the British Ambassador</i> Inquiry whether the appointment of Mr. Eric Hendrik Louw as Minister of the Union of South Africa would be agreeable.	848
Aug. 6	<i>To the British Ambassador</i> Assurance that appointment of Mr. Louw will be agreeable; inquiry whether the British Government would agree to establishment of American diplomatic representation in the Union of South Africa.	848
Aug. 28 (481)	<i>From the British Ambassador</i> Assurance that the establishment of an American Legation in the Union of South Africa would be warmly welcomed. (Note: Information concerning Mr. Louw's presentation of letters of credence to the President on November 5, appointment of the American Consul General at Cape Town as Minister Resident on December 19, and subsequent appointment as Minister Plenipotentiary, and removal of Legation to Pretoria, June 20, 1930.)	849

VENEZUELA

ESTABLISHMENT OF CABLE SERVICE WITH VENEZUELA BY ALL AMERICA CABLES, INCORPORATED

1928 Feb. 19 (1486)	<i>From the Chargé in Venezuela</i> Report of the efforts of All America Cables, Inc., since 1922, to extend its activities to Venezuela; request for information regarding present status of the negotiations in Paris between All America Cables and the French cable company which holds an exclusive concession expiring May 11, 1929.	850
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GREAT BRITAIN

VISIT OF THE BRITISH PRIME MINISTER, RAMSAY MACDONALD, TO THE UNITED STATES, OCTOBER 4-10, 1929¹

033.4111MacDonald, Ramsay/20

The Secretary of State to the Ambassador in Great Britain (Davies)

No. 15

WASHINGTON, June 28, 1929.

SIR: The British Ambassador called on me June 20th to talk about the proposed visit of Prime Minister MacDonald. He said that his own view was that it would be a very good thing to get Mr. MacDonald and President Hoover in personal contact. When I mentioned the difficulties which might be caused by hostile criticism in the press and in case they did not dispose of all subjects of interest in controversy between the two nations at their interview, which would of course be quite impossible, he said he hoped that they could at least discuss and perhaps settle the arbitration treaty matter² and that while it was of course impossible that they could settle all of the details of the naval disarmament matter they might announce that they had reached an agreement in principle and were leaving the details to be worked out by others. He thought that this would take the sting out of the press. He also suggested that the press might be prepared beforehand in order to forestall criticism.

I am [etc.]

H. L. STIMSON

033.4111 MacDonald, Ramsay/34

Memorandum by the Secretary of State

[WASHINGTON,] August 15, 1929.

The British Ambassador came to discuss the arrangements for the Prime Minister's visit. The only information he had had was in the form of a letter from the Prime Minister which indicated that he would be here early in October and would remain a few days. He wanted to know whether he could place himself in the hands of

¹ For other correspondence relating to the Prime Minister's visit, see section entitled "Preliminaries to the Five-Power Naval Conference," vol. I, pp. 112 ff.

² *Foreign Relations*, 1928, vol. II, pp. 945 ff.

the Secretary of State and the President and leave the matter of his engagements entirely to them. He made some suggestion in his letter to the British Ambassador that he might go from here to Canada afterwards. He asked whether he could have some discussions with the President of an informal and friendly character on the general situation without the character of negotiations. He proposes to come without any retinue except a couple of secretaries.

The Ambassador seemed to have it on his mind considerably and to be a little bit disturbed by not knowing any more details. He thought that while there was no necessity of any publicity being given to any arrangements that it would be well to begin thinking about them beforehand. I told him that I knew nothing about the date though I had a recollection of having heard that the proposal was to come early in October. I told him that I felt certain that if he came he would have ample opportunity for discussions with the President on the general situation in an informal and friendly manner. The Ambassador asked if I knew of any reason why this meeting could not take place at that time. I said so far as I knew there was no reason. The only point we had in mind was to insure that the Prime Minister's visit was so timed in respect to the progress of the naval negotiations so that it might not produce any embarrassment to him or to those negotiations; that it was my opinion that those negotiations were going on so well now that we probably would be in the position of having reached a definite and successful conclusion very soon and I outlined to Sir Esme the Prime Minister's last letter and the satisfaction which we felt over it. He asked me whether he could telegraph to his Government these views as to the Prime Minister's visit and I told him I thought so, that I would see the President at lunch and would let him know if anything happened to the contrary.

H[ENRY] L. S[TIMSON]

033.4111 MacDonal'd, Ramsay/57 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, September 28, 1929—noon.

[Received September 28—10:02 a. m.]

286. The Prime Minister and his party sailed this morning on the steamship *Berengaria*. The national importance with which his visit is regarded may be judged from the fact that not only did Mr. Baldwin, in his capacity as leader of the opposition, visit the Prime Minister just previous to his departure, but also the King made the public gesture of a telegram wishing Godspeed, the text of which I quote

herewith as of possible use to the Department during Mr. MacDonald's visit to Washington:

"To the Prime Minister: On the eve of your journey I wish you Godspeed. It is a departure that will be surrounded with good wishes for it is a contribution to those happy relations between two great peoples which must be an article of faith among all men of good will. George R. I."

I am not telegraphing the Prime Minister's parting statement to the press as I have ascertained complete text has been cabled by various American news agencies.

Mr. Snowden will be the Prime Minister's deputy during MacDonald's absence.

DAWES

033.4111 MacDonald, Ramsay/95½

Memorandum by the Secretary of State

[WASHINGTON,] October 7, 1929.

MEMORANDUM OF TRIP TO RAPIDAN, OCTOBER 5TH TO 7TH

I left Washington about 2:30 with Sir Robert Vansittart and R. L. Craigie.³ We arrived about six o'clock at the camp. On the way we discussed:

I. The assistance required for prohibition enforcement.

They said this would be very difficult as it required legislation. They were willing to do everything that could be done without legislation. At the camp the Prime Minister confirmed this and said they would do everything possible and he included a treaty, which could be ratified more easily than legislation, as something they would be willing to do.

II. Free food supply.

When I put this to them the first time they took it rather, on the whole, favorably. Vansittart suggested that free food ships would not be any good to England unless accompanied by free ports. I answered with the suggestion that this could be accomplished in the same way that we protected Red Cross ships and hospitals; they could be given separate ports or separate portions of ports and be exempted from bombing parties. I repeated the conversations to the President that evening at camp and he adopted the analogy of Red Cross supplies. I don't think he had heard it before.

The evening was spent in general conversation until ten o'clock when the President and Mrs. Hoover retired. Afterwards we re-

³ Private Secretary to the Prime Minister, and the Chief of the American Division of the British Foreign Office, respectively.

mained talking with the British Party but without taking up anything special.

Sunday, at nine o'clock, immediately after breakfast, we began a full discussion; the President, the Prime Minister, Craigie, Vansittart and myself. It was an informal but interesting discussion, with the President and I sitting on one side of the fire and the others on the other side, taking up the subjects in the following order, the President leading the conversation, of course.

I. Assistance in preventing shipments of liquors and narcotics from Great Britain to America.

We proposed reciprocal action forbidding the clearance of ships loaded with cargoes of goods forbidden to enter either country, liquor and narcotics for us, and narcotics for Great Britain. (NOTE: On my talk with Craigie and Vansittart coming down they had suggested that the existing machinery of liaison between the two countries under which Great Britain notified us of any shipments of narcotics to this country might be considerably improved by better cooperation. This was brought up in this conference.) Informally it was agreed that at some future date representatives of both countries would meet to discuss the method of assisting in the enforcement of the prohibition and narcotic laws. The Prime Minister confirmed his associates' statements that the punishment of false clearances would require legislation. They all admitted the objections to legislation would not apply to a treaty with the same strength.

II. Freedom of the seas.

This matter was carefully discussed with the reasons for it on our side and the dangers on theirs. I made as strong a presentation as I could of the importance of it to Great Britain and to the naval question. The President said it must come as an offer from us to Great Britain. The proposal finally boiled down to the recommendation that the matter should be examined into by jurists and then the President should make a statement, off his own bat, in favor of free food ships, with the Prime Minister to follow by another public statement; the President's statement to be incorporated in our general announcement of the results of the Prime Minister's visit. The Prime Minister analyzed the political situation in England as follows: Labor would support such a proposition; the Liberals would support it; the young Conservatives would support it; the old Conservatives would oppose it; the Naval people would oppose it; unorganized public opinion, in general, would be suspicious of it. Afterwards, Vansittart told me that the Prime Minister had been overoptimistic in his opinion; that it would be much more generally opposed than he thought. Craigie said that the Committee of Imperial Defense had been discussing the general subject "in and out" for two years.

They felt pretty clearly that there was great danger of the matter causing an unfavorable reaction unless it was presented just right. If presented just right they agreed with us that it would command British support. For this reason they opposed the use in the first announcement of the expression "freedom of the seas" as this was associated in the British mind with attacks on their navy. Craigie suggested instead "rights and immunities at sea during war".

III. The Kellogg Pact.

Throughout the talk it was agreed by everybody, and in fact, kept coming up for re-affirmation constantly, that the enactment of the Kellogg Pact⁴ created a new starting point for international negotiations for the preservation of peace.

IV. Amendment of the Kellogg Pact.

The President brought up the memorandum which he had dictated embodying his latest views on the proposition which Cotton⁵ and I had been urging on him of getting a new starting point by which all nations could agree on stamping out the conflagration of war and preventing it.⁶ I had brought up Philip Kerr's article in *Foreign Affairs* for October and gave it to the Prime Minister to read. He knew of Kerr's view and told me he agreed with him; I told him that I also agreed with him. He read the article while he was there and said he agreed with it.

The President was opposed to our proposition that any outside nation had a right to interfere in this subject of preventing a conflagration of war because of the political opposition which it would excite against having officious countries butt into our affairs. He stressed the point of view that the essence of our proposal should be that the parties to the controversy were entitled to have it investigated by a commission of their own choosing and on which they were represented. The memorandum which he presented embodied both our views. The question of whether it should be presented as an amendment to the Kellogg Pact was also argued. I had pointed out the danger of offending Mr. Briand⁷ by an attempted amendment of his treaty and this difficulty was recognized in the conference.

The President's memorandum was talked over very fully during the morning and again in the evening. In this discussion these points came out very clearly:

⁴Treaty for the renunciation of war as an instrument of national policy, signed at Paris, August 27, 1928, *Foreign Relations*, 1928, vol. I, p. 153.

⁵Joseph P. Cotton, Under Secretary of State.

⁶See annex VIII to memorandum by the Secretary of State, October 9, p. 30.

⁷French Minister for Foreign Affairs.

First. The two separate amendments which we were trying to cover, both of which we agreed were important:

(a) that either of the disputants should have the right to present his case to world opinion through a Commission on which he was represented;

(b) in case neither disputant did so, that a neutral nation was interested in stopping the conflagration of war and should be allowed to do so.

Second. The difficulties which gradually emerged were that nearly all other nations are members of the League of Nations where the Council has the right to impose a conciliation with sanctions.

Again, there are many separate conciliation treaties between various nations which cover point (a) above. If we should propose a general multilateral treaty covering both (a) and (b) the nations who were members of the League would not be interested in doing it for us. Yet there is great need that it should be done in order to bring the great influence of the United States effectively to bear upon the settlement of controversies despite the fact that she is not a member and will not join the League. Also the general trend of public opinion now is in favor of the method of the Kellogg Pact of an appeal to world opinion rather than the method of the League with an appeal to force, after an investigation by a Superior Council.

After all these points had been discussed late in the evening we decided that, owing to these objections, it was unsafe to use this subject as one of the announcements of our meetings.

On the way home Monday morning driving with the President and MacDonald, I asked MacDonald whether, in case I should succeed in avoiding these difficulties and in negotiating successfully with Briand for a general pact would he, MacDonald, support it. He replied: "With open arms".

V. Naval Bases.

The President presented our proposition to divide the world into two hemispheres in the western one of which the British will not maintain naval or military stations which are a menace to us and in the eastern one of which we shall not maintain such bases which are a menace to them. They said that they were certain their existing bases in the western hemisphere were not fortified enough to constitute such a menace. It was agreed that only armament should be affected and not supplies or repairs. They were willing that the armament should extend only to the ability to stand off raids of privateers and to do ordinary police work against internal troubles. Finally it was decided that the best way was to have our General Board advise us as to the truth of the British statement that their bases are thus innocuous and then to have them agree not to increase them so that

they would become a menace to us. In the eastern hemisphere I pointed out the existence of the Pacific Treaty⁸ and the danger of making a new covenant within the scope of that treaty, particularly in reference to regulation in relation to Hawaii and Japan, and they agreed.

During the morning conference I suggested to the President that we send for Cotton and he arrived after luncheon at about two thirty.

After the morning conference, at about eleven o'clock we went for a walk and on our return at one o'clock the President and I retired and the President, with my assistance, dictated a memorandum which was used as the basis of the afternoon's conference and which covered the subjects discussed in the morning. This is attached and marked "A" with red pencil. The interlineations are in the President's handwriting.⁹ This was used as the basis of the afternoon conference. In the afternoon we went over it and then Cotton and I retired and dictated a new memorandum. A copy of this memorandum is attached marked "B" with red pencil. The interlineations on it are in my own handwriting.⁹ This was discussed all evening. Then we decided that we would eliminate the point about the amendment of the Kellogg Pact (marked I) in view of the difficulties above discussed, and modify the whole thing so as to confine it to the relations of the United States and Great Britain.

During our absence from the room two other memoranda were drafted by the President and they are attached hereto marked with red pencil "C" and "D".

[Annex A]

Memorandum by President Hoover

OCTOBER 6, 1929.

We have engaged in an examination of the broad questions of reinforcing the peace of the world. The situation in the world has been importantly altered in consequence of the pact of Paris. The declaration of that pact, "that the world has renounced war as an instrument of national policy["] and its undertaking that settlement or solution of disputes and conflicts of whatever origin shall never be sought except by pacific means re-orient all problems of peace.

One of the important consequences is to reduce the purpose and use of military and naval power solely to that of national defense and to emphasize the necessity for removal of international friction. It is imperative to re-examine the international situation in these lights and to seek further means for the pacific settlement of international controversies, and measures in reduction of international frictions.

⁸Treaty between the United States, the British Empire, France, and Japan, signed at Washington, December 13, 1921, *Foreign Relations*, 1922, vol. I, p. 33.

⁹Memorandum printed as revised, with no attempt to show where revisions occurred.

In the furtherance of practical application of these ideas, we have examined the possibility of the extension of the pact of Paris to strengthen measures against the outbreak of war and to reinforce the machinery of pacific settlement of controversies.

I

We are united in the feeling that an advance step could be taken in development of pacific means for the settlement of controversies if an article, to be called "Article 3" could be added to the pact of Paris to the effect that in event of any controversy in which satisfactory settlement is not made by direct negotiation or agreed reference to arbitration or judicial decision, such controversy shall be investigated by a commission to be selected by the parties to the controversy, upon which commission the parties shall be represented together with impartial members; this commission to examine all the facts concerning the controversy, to endeavor to conciliate the difficulties and to publish the facts; that suggestion of the desirability of such action by nations strangers to the controversy would not be considered an unfriendly act.

In the field of reduction of international friction we have examined the broad problems of naval reduction and limitation. We have further examined the question of limitation upon construction of military bases and we have examined the question usually referred to under the heading of "freedom of the seas".

(Rights and immunities at sea during war)

(Merchant trading during time of war)

The state of peace is recognized as normal by the Pact of Paris and war is outlawed. All nations have a legitimate interest in the preservation of peace, and all are injured by a breach of peace.

The United States, in numerous treaties of conciliation with the leading powers of Europe, in treaties with the Pan American nations, in its adhesion to the Hague treaties, has already accepted these principles. The covenant of the League of Nations provides that the counsel [*Council?*] of the League shall make such inquiry among its members. The principles of this suggestion, therefore, have been widely agreed to by the nations of the world.

This proposal however differentiates itself from those hitherto in that it would extend the number of nations adhering to these ideas; it undertakes to secure action by initiative of the parties to the controversy themselves; to secure to each nation the right to have the facts determined and an appeal to public opinion, and to arouse world opinion and world conscience that the facts shall be determined.

II

NAVAL REDUCTION AND LIMITATION

One of the primary necessities of the world for the maintenance of peace is the elimination of the frictions which arise from competitive armament and the further necessity to reduce armament in economic relief to the peoples of the world. The negotiations which have taken place between the United States and Great Britain have been based upon a desire on both sides to find solution to their peculiar problems which have hitherto stood in the way of world agreement on this question.

The negotiations which have taken place during the past three months have resulted in such an approximation of views as has warranted the calling of a conference of the leading naval powers¹⁰ in the belief that at such a conference all views can be reconciled. (Between ourselves we have agreed upon parity, category by category as a great instrument for removing the competition between us.) All the reconsideration of capital ship replacement programs provided in the Washington Arms Treaty,¹¹ the limitation and reduction in the categories of cruisers, destroyers and submarines, yield strong hope of final agreement, and it has been agreed that we shall continue to mutually examine these questions involved prior to the conference. And we shall continue to exchange views upon questions and concurrently discuss these views with the other naval powers.

III

With further view to reducing friction and to minimize the possibility of conflicts, we believe that we should agree that Great Britain should not establish new or maintain fortified military bases in the Western Hemisphere, such area to be defined as that portion of the globe lying west of say 25° meridian to the 180° meridian, or thereabouts; and that the United States on the other hand should not establish or maintain military bases in the Eastern Hemisphere, except so far as that provided in the pacific treaties of 1922—the Eastern Hemisphere for this purpose to be defined as that area of the globe lying east of the 25° meridian to the 180° meridian.

IV

We recognize that one of the most troublesome questions in international relations is that of freedom of the seas. (Some other ex-

¹⁰ The forthcoming conference on naval disarmament to be held in London in January 1930.

¹¹ Treaty for the limitation of naval armament, signed at Washington, February 6, 1922, *Foreign Relations*, 1922, vol. I, p. 247.

pression to be substituted). Not only does this subject arouse fear and stimulate naval preparation, but it is one of the pregnant causes of expansion of the area of war once it may have broken out, by dragging other nations in as the result of controversies with belligerents.

Misunderstandings arising out of these questions have been the most pregnant cause of controversies in the past between our two countries. We have resolved therefore that we will examine this question fully and frankly.

The President proposes, and he hopes the American people would support the proposal, that food ships should be declared free from interference during times of war, and thus to remove starvation of women and children from the weapons of warfare. That would reduce the necessity for naval arms in protection of avenues of food supplies. Such a proposal goes wider than the rights of neutrals in times of war and would protect from interference all vessels solely laden with food supplies in the same fashion that we now immunize hospital and medical supplies.

[Annex B]

Memorandum by the Secretary of State and the Under Secretary of State (Cotton)

OCTOBER 6, 1929.

We have engaged in an examination of the broad question of what steps are involved in re-enforcing the peace of the world. The situation has been vitally altered in consequence of the pact of Paris.

The declaration of that pact, that the nations of the world have renounced war as an instrument of national policy and have undertaken to settle all disputes and conflicts of whatever origin, by pacific means, furnishes a new starting point for all the problems of peace.

[By agreement upon this pact, the underlying causes which have led to competition in armaments, are ended and one of the great causes of war is eliminated.]¹² It is therefore now imperative to re-examine the international situation in this light in order that we may find measures to strengthen pacific means to settle international controversies, to reduce international friction and thus prevent other causes which might still lead to war.

¹² Bracketed and stricken out either before or during the discussion.

I¹⁸

By the pact of Paris, it is recognized that in the public opinion of the world today the condition of peace is normal and the condition of war outlawed. Thus public opinion has become a new and vital factor underlying every international controversy. It is important to either party in every such controversy where the difficulty cannot be settled by direct negotiation or by an agreed reference to arbitration or judicial decision, that the dispute be impartially investigated and the facts thus brought out laid before the public opinion of the world, in order to secure for a righteous cause the support of the world's approval.

Even before the ratification of the Pact of Paris, the United States had proposed and bound itself by this method in numerous treaties of conciliation with the leading powers of Europe and in recent treaties with other American nations. The Covenant of the League of Nations also provides that the Council of the League may make such inquiries and investigations among its members. The importance and value of this method of resolving differences has thus been widely accepted by the nations of the world.

It seems wise, therefore, that this right of a disputant nation to appeal to the public opinion of the world should be made universal. By a general treaty like the pact of peace, the disputant should have the right to call for the creation of an impartial commission, formed for this purpose, on which both sides should be represented, to investigate and report upon the facts of the controversy. Furthermore, as other nations have a legitimate interest in the preservation of peace, and may be injured or endangered by a breach thereof, they also, in cases where the usual means provided by treaties for direct negotiations or arbitral or judicial settlements are not invoked, should have the right to urge and require that such an investigation be made and the public opinion of the world be informed.

It may well be found that this end may be most appropriately accomplished by a third article to the pact of peace.

II

The most important concrete step to insure peace is to stop the race of competitive armament with its train of fear and friction and its economic burden on the people of the world. The negotiations which have taken place between the United States and Great Britain during

¹⁸This point eliminated from the memorandum by agreement during the discussion.

the past summer have been based upon the desire of both sides to find a solution for the problems peculiar to them, which have hitherto stood in the way of world agreement on this question. These negotiations have resulted in such an approximation of views as to warrant the issue of invitations to a conference of the leading naval powers in the belief that the way is now prepared for a general agreement on naval reduction.

We have agreed upon the principle of parity between our two navies, category by category, believing that such an agreement alone will prevent competition in naval armaments between our two countries.

We have also agreed, if the other signatories are in accord, to a reconsideration of the capital ship replacement program provided in the Washington Arms Treaty; to limitation of cruisers and reduction in the categories of destroyers and submarines, and that we shall continue to mutually examine these questions prior to the conference, in the hope of achieving further reduction.

We shall continue to exchange views upon these questions and to concurrently discuss these views with the other naval powers.

III

With the further view to reducing fear and the friction that comes from fear, we have obtained the opinion of our General Board of the Navy, that the existing military and naval stations of Great Britain in the Western Hemisphere are not in a condition to be a menace to the U. S.

Great Britain will not hereafter establish any military or naval stations in her possessions in the Western Hemisphere nor alter any such existing stations in such a way as in either case to become a menace to the United States.

Reciprocally, the United States makes the same agreement as to the Eastern Hemisphere.

It is understood however by both of us that the above declaration does not supersede or alter the provisions of Article XIX of the Washington Treaty of 1922 for the Limitation of Naval Armament.

Such Western Hemisphere is to be defined as that portion of the globe lying west of the 25th meridian and east of the 180th meridian. The Eastern Hemisphere is the remainder of the globe.

IV

We recognize that one of the most vexed questions in international relations is that of rights and immunities at sea during war.

The controversies and disputes engendered by this subject have in the past been pregnant with the danger of aggravating or extending

hostilities. Misunderstandings and fears arising from this source have been a frequent but we believe avoidable cause of friction between our two countries.

We have resolved, therefore, that we will examine this question fully and frankly.

The President hopes that food ships shall be declared free from interference in times of war, thus removing the starvation of women and children from the weapons of warfare, and reducing the necessity for naval arms for the protection of avenues of food supplies. Such a proposal would protect all vessels laden solely with food supplies in the same fashion that hospital ships are now protected.

[Annex C]

Memorandum by President Hoover

[OCTOBER 6, 1929.]

Preparatory to the January conference it is agreed that we shall further examine the following questions:

Capital ships

The British to formulate suggestions for replacement by ships limited to 12-inch guns, 25,000 tons.

The United States to formulate proposals for the deferment of replacements for a period of 5 years and for the dropping out of certain replacements altogether.

Cruisers

The United States to formulate a suggestion for creation of a class of police cruisers to be comprised of cruisers not in excess [omission?].

Destroyers

It is suggested that the maximum destroyer strength of each nation should be approximately tons.

Submarines

While our action must be governed entirely by the attitude of the other powers, we suggest a maximum of tons for submarines. We would, of course, be glad to abolish them altogether.

[Annex D]

Memorandum by President Hoover

[OCTOBER 6, 1929.]

We have reviewed the questions particularly affecting the United States and Great Britain in naval reduction and limitation. The following is the position of negotiations:

Battle Ships

We have agreed to continue the examination of how far we can defer or drop or modify the replacements required by the Washington Arms Treaty.

Cruisers

We have agreed to continue the examination of the cruiser category with view to reducing the gross tonnage previously stated for this category.

Destroyers

We have agreed that the maximum tonnage for destroyers should be 190,000 tons but we shall further examine this with the intention of reduction at the conference.

Submarines

We are prepared to abolish all submarines. We shall, however, need to establish a tonnage at the conference based upon that required by other powers.

These accomplishments promise definite reduction in existing tonnage and prospective programs of the two countries.

As soon as the conference has been fixed we propose to exchange views with the other naval powers upon similar questions in a desire to advance problems as far as possible prior to the conference.

033.4111MacDonald, Ramsay/95‡

Memorandum by the Secretary of State

[WASHINGTON,] October 9, 1929.

MEMORANDUM OF PAPERS DRAWN UP DURING PRIME MINISTER
MACDONALD'S VISIT

When we came down from Rapidan we used as a basis the memoranda "A" and "B" attached to my memorandum of October 7. Mr. Cotton drafted a memorandum which is annexed hereto marked I.

From this memorandum the President, on Monday afternoon,¹⁴ drafted another memorandum, according to my recollection, while I was at work with Mr. Adams¹⁵ over the vagaries of the General Board. I went over the President's memorandum on that afternoon with him while Mr. Cotton went down to see the General Board. The President's original memorandum is not attached. Then the Prime Minister took the President's memorandum and on the basis of it that night produced another memorandum which is attached, marked I-a.

After he produced I-a the Prime Minister got alarmed about making any reference to the President's statement on food ships and there was produced II.

In the meantime I was at work on the President's food ship idea and made a revision of it, marked II-a.

He¹⁶ accepted substantially as embodied in II-b.

¹⁴ October 7.

¹⁵ Charles Francis Adams, Secretary of the Navy.

¹⁶ i.e., Prime Minister MacDonald.

Tuesday night he was getting more troubled about public opinion and getting frightened about the naval station point, but at the British Ambassador's dinner he told me what he thought he could do in respect to that. I got up at six o'clock Wednesday morning and drafted the penciled paper attached, marked III. At 7:20 I telephoned to Vansittart my version of what the Prime Minister was willing to do on the naval base point. I stopped at the British Embassy on my way downtown and found the Prime Minister had receded again from III and was at work on a carbon of draft II. He came in and brought me a draft of II with his amendments in his handwriting. I had a pretty thorough talk with the Prime Minister at that time and made up my mind he could not do any more than he proposed without danger of disrupting his government and destroying what we were hoping for.

I then went to the White House with II with the Prime Minister's amendments on it. I went over it with the President, putting in the things which are in my handwriting, and then at 12:15 the Prime Minister, Vansittart and Craigie came in and the communique for the press was agreed on substantially upon the basis of II as amended.

The President afterwards sent me over a letter, dated October 9, with memoranda on the two subjects which had thus been omitted: military stations and food ships. This letter is attached with its enclosures as IV.

Later that afternoon the President sent for me and read me a memorandum which he had made of his conversations with the Prime Minister on the subject of the enforcement of prohibition, which, after my criticisms, was sent to Mr. MacDonald.¹⁷

The communique for the press is attached here as V in the form which Cotton and I went over with Craigie after the 12:15 White House conference. In this form it was given to Mr. Akerson¹⁸ to be multigraphed.

I also attach hereto a memorandum dated Sunday, October 6, 1929, containing the results of the President's discussions with MacDonald and Craigie on the subject of the cruisers, at Rapidan. This is marked VI.

There is also attached the President's note of October 1 containing some of his preliminary memoranda in regard to the various matters which were to be discussed at Rapidan. This is marked VII.

There is attached as VIII a memorandum, my first one, scratched up by the President, on the principle of trying to work out the Kellogg Pact amendment mentioned in my memorandum of October 7.

¹⁷ See letter from President Hoover, October 10, p. 31.

¹⁸ George Akerson, Secretary to the President.

Today, October 9, in our discussion at the Embassy, Craigie, who was very anxious to have added to our communique in some form, the Pact of Peace amendment, made the draft which I have marked IX and attached hereto.

In a telephone conversation this morning the President suggested that his statement on food supplies could be given out by Mr. MacDonald after he left Washington with the enclosed memorandum marked X. I proposed this to MacDonald at the Embassy this morning when I was there between 10 and 10:30 and he at first accepted it and was going to do it, but after consultation with Vansittart decided that it was too dangerous in view of his later telegrams from London.

I attach also miscellaneous copies of some of these papers which I have not had time to sort out and which I have marked "x".¹⁹

[Annex I]

Memorandum by the Under Secretary of State (Cotton)

OCTOBER 7 [, 1929].

By the Pact of Paris the nations of the world renounced war as an instrument of national policy. The United States and Great Britain completely accept that renunciation. As regards each other they have resolved that henceforth it is axiomatic that war between the two countries is unthinkable. That basic conclusion has been the chief point in the consultations which have been proceeding between the Prime Minister and the President. To emphasize that conclusion has been the main purpose of the Prime Minister's visit to the United States. During the consultations they have reviewed the concrete measures which, in the light of that conclusion, may be wisely taken by the two countries to prevent friction and differences between them.

NAVAL DISARMAMENT

The most important concrete step to insure peace is to stop the race of competitive naval armament with its train of fear and friction and its economic burden on the peoples of the world. The negotiations which have taken place between the United States and Great Britain during the past summer have been based upon the desire of both countries to find solution for the problems peculiar to them which have hitherto stood in the way of world agreement on this question. The negotiations have resulted in such an approximation of views as warrants the issue of invitations to a conference of the leading naval powers in the belief that the way is now pre-

¹⁹ Not printed.

pared for a general agreement on naval reduction. In the negotiations the two countries have agreed on the principle of parity between them in the belief that thus alone can they end competition between them in naval armament. They have also agreed, if the other signatories be in accord, to a reconsideration of the capital ship replacement program provided in the Washington Arms Treaty.

The exchange of information and views between the Prime Minister and the President in person during the last few days has resulted in a better understanding of the needs and the problems of the two Governments in regard to naval armament, and it is clear that such differences as still remain may be safely left to be disposed of in the conference. In preparation for the conference the two countries will continue to exchange views and information with each other and concurrently with the other naval powers who are invited to the conference.

RIGHTS AND IMMUNITIES AT SEA

It is recognized that some of the most troublesome questions in international relations are those arising out of rights and immunities at sea during war. The controversies and disputes engendered by this subject have in the past been pregnant with the danger of aggravating or extending hostilities. The misunderstandings and fears arising from this source have been a frequent, but it is believed an avoidable, cause of friction between the two countries. It is resolved, therefore, that this question should be fully and frankly examined.

The President hopes that food-ships will be declared free from interference in time of war, thus removing starvation of women and children from the weapons of war and reducing the necessity for naval arms for the protection of avenues of food supplies. Such a proposal would protect all vessels laden solely with food supplies in the same way that hospital ships are now protected.

[Annex I-a]

Memorandum by the British Prime Minister (MacDonald)

[OCTOBER 7, 1929.]

During the last few days we have had an opportunity not only to review the conversations on a naval agreement which have been carried on during this summer between representatives of the United States and Great Britain, but also to discuss some of the more important means by which the moral force of our countries can be exerted for peace. We have been guided by the double hope of settling our own differences on naval matters and so establishing

unclouded good-will, candour and confidence between us, and also of contributing something to the solution of the problem of peace in which all other nations are interested and which calls for their cooperation.

In signing the Paris Peace Pact we and 56 other nations have declared that war shall not be used as an instrument of national policy. We have agreed that all disputes shall be settled by pacific means. Both our Governments resolve to accept the Peace Pact not only as a declaration of good intentions but as a positive obligation to direct national policy in accordance with its pledge.

The part of each of our governments in the promotion of world peace will be different, as one will never consent to become entangled in European diplomacy and the other is resolved to pursue a policy of active cooperation with its European neighbours; but both of our governments will direct their thoughts and influence towards securing and maintaining the peace of the world.

Our conversations have been largely confined to the mutual relations of the two countries in the light of the situation created by the signing of the Peace Pact. Therefore, in a new and reinforced sense the two governments not only declare that war between them is unthinkable, but that distrusts and suspicions arising from doubts and fears which may have been justified before the Peace Pact must now cease to influence national policy. We approach old historical problems from a new angle and in a new atmosphere. On the assumption that war between us is banished, and that conflicts between our military or naval forces cannot take place, these problems have changed their meaning and character, and their solution, in ways satisfactory to both countries, has become possible.

The exchange of views on naval reduction has brought the two nations so close to agreement that failure seems now out of the question. We have kept the nations which took part in the Washington Naval Conference of 1922 informed of the progress of our conversations, and we have now proposed to them that we should all meet together and try to come to a common agreement which would justify each in making substantial naval reductions. An Anglo-American agreement on naval armaments cannot be completed without the cooperation of other naval powers, and both of us feel sure that, by the same free and candid discussion of needs which has characterized our conversations, such mutual understandings will be reached as will make a world agreement possible and pave the way for the long delayed larger world conference on disarmament.

Between now and the meeting of the proposed conference in January, our governments will continue conversations with the other powers concerned, in order to remove as many difficulties as possible before the official and formal negotiations open.

In view of the security afforded by the Peace Pact, we have been able to end, we trust for ever, all competitive building between ourselves with the risk of war and the waste of public money involved, by agreeing to a parity of fleets, category by category.

We have already initiated steps for the reduction of our own naval programmes. We propose that between ourselves and the other naval powers we shall, before the conference, consider how far the replacement battleship programmes set out in the Washington Treaty for the Limitation of Naval Armament can be deferred or dropped or modified; re-examine the cruiser category, which for the moment produces special difficulties, with a view to fixing the gross tonnage at its lowest possible level; and suggest a very considerable reduction of tonnage used for destroyers. Further, we agree that whilst ourselves prepared to abolish all submarines, we realise that we must meet the views of the other naval powers, but we shall negotiate with them so as to try and effect reductions by mutual agreement.

Success at the coming conference will result in a large decrease in the naval equipment of the world and, what is equally important, the reduction of prospective programmes of construction which would result in competitive building to an indefinite amount.

Two questions which cannot be dissociated from any satisfactory agreement between America and Great Britain have also been discussed and methods of dealing with them suggested.

The first relates to fortified stations which are apt to be made the subject of a propaganda of fear from which friction is likely to arise.

The General Board of the United States Navy have put their opinion on record that the existing military and naval stations of Great Britain in the Western Hemisphere are not in their present condition an appreciable menace to the United States.

Great Britain will not hereafter establish any military, naval or military aviation stations in her possessions in the Western Hemisphere nor alter any existing stations in such a way as to become a menace to the United States.

Reciprocally the United States makes the same agreement as to the Eastern Hemisphere.

It is understood, however, by both parties that the above declaration does not alter nor supersede the provisions of Article 19 of the Washington Treaty of 1922 for the Limitation of Naval Armament within the territory covered thereby.

The Western Hemisphere is to be defined as that portion of the globe lying West of the 30 meridian and East of the 170 meridian, and the Eastern Hemisphere as the remainder of the globe. This arrangement may be placed in treaty form if it seems desirable.

As regards the second point, we recognise that some of the most troublesome questions in our relations are those which have arisen out of rights and immunities at sea during war. The controversies and disputes engendered by this have in the past been pregnant with the danger of aggravating and extending hostilities. Misunderstandings and fears springing from this source have been a frequent, but we believe avoidable, cause of friction between our two countries. We have resolved, therefore, that we shall examine the question fully and frankly together on all its bearings.

[The two paragraphs which follow *infra* were stricken from the draft, as the Secretary implies in his memorandum of October 9, printed on page 14.]

The President himself hopes that food ships will be declared free from interference in time of war, thus removing the starvation of women and children from the weapons of warfare and reducing the necessity for naval arms to protect avenues of food supplies. His proposal would place all vessels laden solely with food supplies on the same footing as hospital ships.

He takes the view that the accentuated growth of industrialisation during the past half century places countries with populations in excess of their domestic food supply in a peculiarly weak military position, and that protection for overseas supplies has been one of the impelling causes of increasing naval armament. Further, he contends that the economic stability of surplus food-producing countries is to a considerable degree dependent upon keeping the avenues of export open and they in turn consider they must maintain armament to protect such outlets. Moreover, in all naval wars of recent years a large element in strategy by all nations has been to cut off such supplies. He expressed the belief that the time had come for the world to consider the true meaning of such action and to agree that the starvation of civilian populations should not be included in the weapons of war, and that a definite organisation for the protection of food movements in time of war would constitute the most important contribution to the rights of parties whether neutrals or belligerents, as well as a lessening of the pressure for naval strength.

We believe that this cooperation in peacemaking will be warmly welcomed by the peoples whom we represent and be a substantial contribution to the efforts now being universally made to gain security, not by military organisation which has always failed, but by peaceful means rooted in public opinion and enforced by the sense of justice of the civilised world.

[Annex II]

[This annex is not printed. It is the same as annex I-a, *supra*, except for slight verbal changes and the omission of the two last

paragraphs preceding the final paragraph. For annex II as amended, see the joint statement of President Hoover and the British Prime Minister set forth in the statement issued to the press October 10, printed on page 33.]

[Annex II-a]

Memorandum by the Secretary of State

[OCTOBER 7, 1929.]

We recognize that some of the most troublesome questions in our relations are those of rights and immunities at sea in times of war. The controversies and disputes engendered by this have in the past been pregnant with danger of aggravating and extending hostilities. Misunderstandings and fears springing from this source have been a frequent, but we believe avoidable, cause of friction between our two countries. We have resolved that we will examine the question fully and frankly together in all its bearing.

The President hopes that it will be possible to suggest to the other powers that all ships laden solely with food shall be made free of any interference in times of war, in some such manner as is now provided for hospital ships, thus removing starvation of women and children from the weapons of warfare and reducing the necessity for naval arms for protection of the overseas lanes of food supplies.

He expressed the view that the rapid growth of an industrial civilization during the past half century has created in many countries populations far in excess of their domestic food supply. As a consequence protection for overseas supplies has been one of the impelling causes of increasing naval armaments. Again, in countries which produce surplus food their economic stability is also to a considerable degree dependent upon keeping open the avenues of their trade in the export of such surplus, and this stimulates armament on their part to protect such outlets. Thus the fear of an interruption in sea-borne food supplies has powerfully tended towards naval development in both importing and exporting nations and in all naval wars of recent years the cutting off or the protection of such supplies has formed a large element in their strategy. He expressed the belief that the time had come for the world to consider the true meaning of this situation and to establish that the starvation of civilian population should not be included among the weapons of warfare. He felt that a definite organization for protection of food movements in time of war would constitute a most important contribution to the rights of parties whether neutrals or belligerents and would greatly tend towards lessening the pressure for naval strength.

[Annex II-b]

Memorandum by the Secretary of State

[OCTOBER 7, 1929.]

The President hopes that it will be possible as one of the results of such examination to suggest to the other powers that food ships shall be made free of any interference in times of war, thus removing starvation of women and children from the weapons of warfare and reducing the necessity for naval arms to protect the overseas lanes of food supplies. His proposal would place all vessels laden solely with food supplies on the same footing as hospital ships.

He expressed the view that the rapid growth of an industrial civilization during the past half century has created in many countries populations far in excess of their domestic food supply and thus peculiarly weakened their military position. As a consequence, protection for overseas supplies has been one of the impelling causes of increasing naval armaments and military alliances. Again, in countries which produce surplus food their economic stability is also to a considerable degree dependent upon keeping open the avenues of their trade in the export of such surplus, and this stimulates armament on their part to protect such outlets. Thus the fear of an interruption in sea-borne food supplies has powerfully tended towards naval development in both importing and exporting nations and in all important wars of recent years the cutting off or the protection of such supplies has formed a large element in the strategy of all combatants. He expressed the belief that the time had come for the world to realize this as one of the underlying causes of the situation and to establish that the starvation of civilian population should not be included among the weapons of warfare. He felt that a definite organization for protection of food movements in time of war would constitute a most important contribution to the rights of parties whether neutrals or belligerents and would greatly tend toward lessening the pressure for naval strength.

[Annex III]

Memorandum by the Secretary of State

[OCTOBER 9, 1929.]

To follow the statement about General Board in II.

The Govt of Great Britain stands ready to make this situation permanent, and after consultation with the dominions concerned to undertake by treaty that no military, naval nor military aviation stations shall be maintained in her possessions in the Western Hemisphere in such a way as to become a menace to the United States.

In those portions of the Eastern Hemisphere where our territories come into proximity the provisions of Article 19 of the Washington

Treaty of 1922 for the Limitation of Naval Armament already apply.

[Annex IV²⁰]

President Hoover to the Secretary of State

THE WHITE HOUSE, October 9, 1929.

MY DEAR MR. SECRETARY: I send you herewith copies of my memoranda on the two subjects—Military Stations, and Freedom of the Seas—and in addition, a copy of the revised edition of the food statement which I gave to Mr. MacDonald this morning.

I transmit these to you in order that we may check up to see that we have the same record.

Yours faithfully,

HERBERT HOOVER

[Enclosure 1—Memorandum]

ARMY, NAVY, AND MILITARY AVIATION STATIONS

The General Board of the United States Navy have put their opinion on record that the existing military and naval stations of Great Britain in the Western Hemisphere are not in their present condition an appreciable menace to the United States.

Great Britain will not hereafter establish any military, naval or military aviation stations in her possessions in the Western Hemisphere nor alter any existing stations in such a way as to become a menace to the United States.

Reciprocally, the United States makes the same agreement as to the Eastern Hemisphere.

It is understood, however, by both parties that the above declaration does not alter nor supersede the provisions of Article 19 of the Washington Treaty of 1922 for the Limitation of Naval Armament within the territory covered therein.

The Western Hemisphere is to be defined as that portion of the globe lying West of the 30 meridian and East of the 170 meridian, and the Eastern Hemisphere as the remainder of the globe. This arrangement may be placed in treaty form if it seems desirable.

[Enclosure 2—Memorandum]

RIGHTS AND IMMUNITIES AT SEA DURING WAR

As regards the second point, we recognize that some of the most troublesome questions in our relations are those which have arisen out of rights and immunities at sea during war. The controversies and

²⁰ Filed under 033.4111 MacDonald, Ramsay/953.

disputes engendered by this have in the past been pregnant with the danger of aggravating and extending hostilities. Misunderstandings and fears springing from this source have been a frequent, but we believe avoidable, cause of friction between our two countries. We have resolved, therefore, that in the light of the new situation created by the Pact of Paris, we shall examine the question fully and frankly together on all its bearings.

[Enclosure 3]

Statement Regarding Food Ships

The President has made the informal suggestion that food ships should be made free of any interference in times of war, thus removing starvation of women and children from the weapons of warfare and decreasing the necessity for naval arms for protection of the overseas lanes of food supplies. His suggestion would place all vessels laden solely with food supplies on the same footing as hospital ships.

He expressed the view that the rapid growth of industrial civilization during the past half century has created in many countries populations far in excess of their domestic food supply and thus steadily weakened their natural defenses. As a consequence, protection for overseas supplies has been one of the impelling causes of increasing naval armaments and military alliances. Again, in countries which produce surplus food their economic stability is also to a considerable degree dependent upon keeping open the avenues of their trade in the export of such surplus, and this again stimulates armament on their part to protect such outlets. Thus the fear of an interruption in seaborne food supplies has powerfully tended towards naval development in both importing and exporting nations. And in all important wars of recent years to cut off or to protect such supplies has formed a large element in the strategy of all combatants. He expressed the belief that the world must sooner or later realize this as one of the underlying causes of its armed situation. And further, that steps should be taken that starvation should not be included among the weapons of warfare. He felt that definite organization under neutral auspices for protection of food movements in time of war would constitute a most important contribution to the rights of parties, whether neutrals or belligerents and would greatly tend toward lessening the pressure for naval strength.

The President recognizes that such a suggestion could become practicable only by world-wide revision of existing treaties and the international understandings among many nations, and only after further realignment of world thought which should flow from the Paris Peace Pact.

[Annex V]

[This final draft of the joint statement by President Hoover and the British Prime Minister is set forth in the statement issued to the press October 10, printed on page 33.]

[Annex VI]

Memorandum by President Hoover

SUNDAY, OCTOBER 6, 1929.

Mr. MacDonald explained to me that he thought he could devise a program which would maintain 50 cruisers for the British Navy and still result in a reduction of gross tonnage by some 14,000 tons. He asked how this would affect our views.

I told him it would of course affect our views to the extent of this tonnage. I requested the details of the ships and these were furnished to me by Mr. Craigie. I then calculated the valuation of Mr. MacDonald's new proposal by the General Board's formula with the following results:

MR. MACDONALD'S NEW PROPOSAL

<i>Units</i>	<i>Gross</i>	<i>General Board Valuation</i>
15 8-inch	146,800	135,565
21 old 6-inch	101,480	64,961
2 old 6-inch	9,000	6,000
7 new 6-inch (6500)	45,500 (6500)	43,680
5 new 6-inch (4500)	22,500 (4500)	21,000
	<hr/>	<hr/>
	325,280	271,206
Mr. MacDonald's former proposal	339,280	287,886
	<hr/>	<hr/>
Reduction	14,000	16,680

GENERAL BOARD AMERICAN NAVY

<i>Units</i>	<i>Gross</i>	<i>Valuation</i>
21 8-inch	210,000	204,460
10 6-inch	70,500	53,413
5 6-inch	35,250	33,840
	<hr/>	<hr/>
	315,750	291,213

Gen. Board American Navy.	291, 213
MacDonald new proposal.	271, 206

American Navy in excess by 20,000 valuation tons, or equal to two new 8-inch cruisers.

It is interesting to note the results of the application of Admiral Jones' formula to Mr. MacDonald's new proposal.

ADMIRAL JONES' VALUATION

<i>United Kingdom</i>		<i>United States</i>	
15 8-inch	137,543	21 8-inch	205,760
21 old 6-inch	61,461	10 6-inch	50,865
2 old 6-inch	5,500	5 6-inch (new)	30,888
7 new 6-inch (6500)	39,244		
5 new 6-inch (4500)	19,350		
	<hr/>		<hr/>
	262,098		287,513

There is thus a difference of 25,500 valuation tons or 2 new 8-inch cruisers and one 6'' cruiser.

ON MAXIMUM FORMULA—

(G. B. Age—Admiral J. guns)

<i>United Kingdom</i>		<i>United States</i>	
15 8-inch	135,565	21 8-inch	204,360
21 6-inch (old)	55,898	10 6-inch (old)	48,754
2 6-inch (old)	5,000	5 6-inch (new)	30,888
7 6-inch (new)	39,100		
5 6-inch (new)	19,350		
	<hr/>		<hr/>
	254,913		284,002

Or American Navy in excess by 29,000 valuation tons (equal to 3 8-inch cruisers)

Subsequently Mr. Craigie presented me the memorandum ²¹ upon which the above plan was formulated, in which I discover that their proposed U. S. Fleet is

	<i>Gross</i>	<i>Navy Board Valuation</i>
18 large 8''	180,000	174,460
10 <i>Omahas</i>	70,500	53,413
7 New 6'' (7000)	49,000	47,250
	<hr/>	<hr/>
	299,500	275,123

It will be seen that this fleet is 4000 valuation tons above Mr. MacDonald's new fleet and could be reduced by one new 6'' and still fall within the Navy Board valuation formula.

Using the Navy Board formula for age and Admiral Jones' formula for guns the valuation of these two fleets would be as follows:

	<i>Gross Tons</i>	<i>Valuation Tons</i>
U. K.	325,280	254,913
U. S.	299,500	266,000
	<hr/>	<hr/>
	-26,780	+12,900

²¹ *Infra.*

This indicates that we are two of the new ships in excess.

I informed Mr. MacDonald that I could not obviously agree to the reduction of two cruisers from 21 to 19 without the approval of my colleagues. My impression was that it offered an avenue for solution at the conference, that it was my belief that it was undesirable to submit these figures in such places as they would be likely to become public as that would only again start speculation and that we should hold them confidential within our administrations until we arrived at the conference, more especially if the British went into the conference with an initial claim for 339,000 tons of cruiser fleet. It would offer opportunity for adjustment.

It was decided to leave it in this position.

[Enclosure]

Mr. Craigie's Memorandum of October 6, 1929

CRUISER PROBLEM

1. The Japanese make a strong claim for 70% of 8'' tonnage of strongest Power. Total tonnage of 12 Japanese 8'' ships built and building is 10', 400 [108,400]. This figure is 70% of 154,800, which would only give the United States between 15 and 16 8'' ships.

2. The above shows that even if the United States come down to 18 8'' ships (180,000 tons) we cannot satisfy the Japanese claim to 70% of America's 8'' tonnage. On the contrary, 108,400 tons is only 60% of 180,000 tons. On numbers we should however be offering the Japanese a 67% ratio and it is probable that they would accept this ratio under pressure. We could not however be a party to endeavoring to depress the Japanese ratio still further.

3. Either therefore the United States must come down to 18 8'' ships or Great Britain and Japan must build further 8'' cruisers. The latter alternative would be disastrous from every point of view, so we are inexorably brought back to the former.

4. How can this excess of 30,000 tons of American 8'' cruiser tonnage be disposed of? It is suggested that the line of least resistance would be to follow three methods simultaneously, i. e. (1) transfer of American 8'' tonnage to 6'' tonnage; (2) increase in yardstick in our favor; (3) reduction of total British cruiser tonnage each side making an equal contribution to bridge the gap.

5. The precise allocation to each of the above categories of the tonnage to be reduced is a matter for negotiation, but the following plan is suggested as a fair compromise.

(a) U. S. to transfer 14,000 tons of 8'' tonnage to her 6'' allowance thus permitting the construction of 2 more 7,000 ton 6'' cruisers (i. e. 7 in all instead of 5 as she now proposes.)

(b) The present American yardstick works out at what the Americans call a discount in our favor of 24,280 tons on a total American tonnage of 315,000. Expressed differently, it means that 1 ton of 8'' tonnage equals 1.38 tons of 6'' tonnage. That is, one 10,000 ton 8'' cruiser would be regarded as the equivalent of two 6,900 ton 6'' gun cruisers. This is manifestly absurd even on calibre alone, since the bursting power of the 8'' shell is something like six times the bursting power of the 6'' shell. The transfer of tonnage suggested under (a) above would bring the yardstick ratio up from 1:1.38 to 1:1.49. Even this is entirely insufficient and it is suggested that nothing less than a ratio of 1:1. [1:1.8] would bring us within reach of real parity in combatant strength, which is the avowed purpose of the yardstick. This latter ratio works out at one 10,000 ton 8'' ship to three 6,000 ton 6'' ships which, though inadequate of this ratio would enable the Americans to reduce by a further 8,600 tons.

(c) This would leave 7,600 tons of the 30,000 ton gap to be bridged. Working on a yardstick ratio 1:1.8 we should have to reduce one 6'' cruiser tonnage by 13,680 to enable the United States to reduce its 8'' cruiser tonnage by 7,600. It is believed that the Admiralty might be brought to agree to this if we could secure an agreement amongst the Naval Powers (with the possible exception of the United States) that 50% of the numbers of cruisers in each Navy shall be 4,500-5,000 ton ships. (This would be the proportion in our Navy if the suggested reduction of 13,680 in our 6'' tonnage were to be realized, i. e. 25 out of 50 ships would be of an average tonnage of 4,500 tons). As Japan and Italy already have well over 50% of the cruisers in the 5,000 ton type or smaller and France has about 33% in the smaller type, such an agreement should not be impossible.

To sum up:

The 30,000 ton American 8'' excess might, it is suggested, be disposed of as follows:

(a) By transfer of 14,000 tons to 6'' gun category.	14,000
(b) By raising yardstick ratio from 1:1.38C to 1:1.8	8,400
(c) By reducing British light cruiser tonnage by 13,680	7,600
	30,000 tons

Under this scheme the British and American cruiser strengths would be as follows:

	BRITISH EMPIRE
15 8'' gun cruisers.	146,800
35 6'' gun cruisers.	178,800
	325,600 tons
	UNITED STATES
18 8'' gun cruisers.	180,000
10 <i>Omahas</i>	70,000
7 new 6'' gun cruisers	49,000
	299,000 tons

Discount in our favour 26,600 tons, i. e. 13% on 199,000 tons.

Ratio of 8'' tonnage to 6'' tonnage equals 1 ton of 8'' to 1.8 tons of 6''.

Ratio of ships: 1 10,000 tons 8'' cruiser equals 3 6,000 ton 6'' cruisers.

[Annex VII ²²]

The Secretary to the President (Richey) to the Secretary of State

THE WHITE HOUSE, October 1, 1929.

MY DEAR MR. SECRETARY: The President has asked me to transmit to you the enclosed notes which he drafted today in connection with naval parity.

Yours sincerely,

LAWRENCE RICHEY

[Enclosure 1]

Memorandum by President Hoover

OCTOBER 1, 1929.

The contracting nations agree that in case of any dispute between them that they are unable to refer to arbitration or judicial decision, they shall continue discussions looking to settlement for at least one year after the origin of such dispute, or alternatively they will each request through another nation the creation of a committee of inquiry upon which the disputants shall be represented and no military action shall take place during the twelve months.

[Enclosure 2]

Memorandum by President Hoover

OCTOBER 1, 1929.

The parity basis of the two nations shall be 250,000 tons measured in new Washington Treaty cruisers, that is, 10,000 ton cruisers with 8-inch guns, but for ships not exceeding 7,000 tons equipped with 6'' guns an additional gross tonnage shall be allowed not exceeding 20% of the displacement of the latter type of cruisers.

Either nation may elect what type of cruisers it will construct within these ratios. These standards being fixed upon new cruisers (not exceeding three years of age) an additional tonnage may be maintained from time to time compensating for the depreciation due to age within the following formula of progressive obsolescence: (General Board Formula)

²² Filed under 033.4111 MacDonald, Ramsay/95‡.

Upon this formula the following fleets could be maintained—

AMERICAN FLEET No. 1

21 large cruisers 210,000 less age factor	204, 000
10 <i>Omaha</i> (less age & 20% gun factor).	41, 000
Displacement :	280, 000
	245, 000

AMERICAN FLEET No. 2

18 large cruisers 180,000 — age factor	184, 000
10 <i>Omaha</i> (less age & 20% gun factor).	41, 000
5 new 35,000 ton less 20% gun factor.	27, 500
Displacement	285, 000
	252, 500

BRITISH FLEET No. 1

15 large cruisers less age factor	135, 565
21 old cruisers 6" type, less age and 20% gun factor	44, 900
8 old 6" cruisers, less age and 20% gun factor.	72, 800
Total displacement	339, 000
	253, 200

[Annex VIII ²³]

Memorandum by the Secretary of State ²⁴

STIMSON No. 1

HOOVER No. 3

PROPOSED ARTICLE III FOR KELLOGG-BRIAND PACT

The High Contracting Parties further agree that if there should develop between any of them a controversy which is not satisfactorily settled by diplomacy in event of any controversy which satisfactory settlement is not made by direct negotiation or by reference to arbitration or judicial decision it shall be investigated by an impartial commission of conciliation, to be selected by the parties to the controversy and upon which commission said parties may be represented, which shall have full power to examine all the facts concerning such controversy. and to render to both parties and to make public their conclusions. To this end any of the High Contracting Parties not parties to such a controversy may suggest to them the propriety of the creation of such a commission of conciliation and such suggestion shall not be deemed an unfriendly act.

²³ Filed under 033.4111 MacDonald, Ramsay/.

²⁴ Canceled type indicates words apparently crossed out by President Hoover and *italics* those words written in by him.

[Annex IX ²⁵]*Statement Drafted by Mr. R. L. Craigie for Inclusion in the Joint Statement to the Press*

[OCTOBER 9, 1929.]

As a part of the general policy of our two governments to promote the cause of conciliation and arbitration, we believe that the provisions of the Pact of Peace renouncing war as an instrument of national policy would be further strengthened if the interested Powers were to undertake to consult together with a view to agreement as to the best method of preventing a threatened outbreak of hostilities.

A²⁶

We are determined to seek for methods to crystallize the support of the public opinion of the world to those nations which rely upon pacific means for settlement of any controversy.

[Annex X ²⁵]*Draft of a Proposed Joint Statement by President Hoover and the British Prime Minister (MacDonald)*

[OCTOBER 9, 1929.]

Both the President and Prime Minister recognize that such a suggestion is impracticable except by worldwide revision of existing treaties and of international law among nations and only after a further development of pacific thought. The Prime Minister however considers that the suggestion is so pregnant with hope not only because of its transcendent humane character but also as a contribution to thought upon rights and immunities at sea that it should be made public.

033.4111MacDonald, Ramsay/105½

President Hoover to the Secretary of State

THE WHITE HOUSE, October 10, 1929.

MY DEAR MR. SECRETARY: Please find enclosed herewith copy of the prohibition comment sent to the Prime Minister.

Yours faithfully,

HERBERT HOOVER

²⁵ Filed under 033.4111 MacDonald, Ramsay/.²⁶ Added paragraph in the handwriting of the Secretary of State.

[Enclosure]

Memorandum on the Enforcement of Prohibition of the Liquor Traffic

OCTOBER 9, 1929.

The United States is making the most notable effort in all history to suppress alcoholic beverages. This effort is one that is of profound importance to the whole of humanity and the United States in pioneering it in certain directions and [*sic*] is therefore doing service to all nations. It would appear that it should receive the sympathetic support of other nations for whether it succeeds or not, it will at least have exhausted some portion of the wide variety of methods for the remedy of a great human evil.

We have had numerous conferences with Canadian authorities with respect to measures that could be taken to assist in suppression of the flow of alcoholic beverages over the border. The Canadian authorities have cooperated to the extent of giving information to the American officials as to proposed shipments and in other ways which have been most helpful. However, so long as the Canadian Government allows liquor to be cleared for American ports or allows their clearance for other ports when really destined for the U. S. there will be a constant stream of Canadian liquor into the U. S. It is not possible on 3,000 miles of frontier to erect sufficient border patrol to prevent it because the initiative is always in the hands of the smuggler.

This movement of liquor is the source of constant friction between the two nations. Only desperate men of criminal type engage upon it. They are criminals under the laws of the United States. They go armed and often arm their ships. Such equipment is an indication of their intent to kill and they have often killed the United States officers. It is impossible on our side to employ the type of men on border patrols who have knowledge of international law and delicacy in dealing with killers, and when perchance they execute their duty an inch over the line they are the cause of an international incident. The sensational press envisages war with the British Empire whenever an American patrol boat fires on a Canadian bootlegger or vice versa, and if perchance one of this criminal class should be killed or captured, he becomes an international celebrity. The diplomatic officers of Great Britain are placed in the difficult position of defending the rights of criminals. All this leads to constant and disagreeable irritation. The Canadian officials in contact with our officials in the past have insisted very frankly that the export of alcoholic beverages is an important item in Canadian trade. We realize there is no obligation upon Canada to trouble herself

over our problems. We bear her no ill will in the matter for she is entirely within her rights in leaving it alone. The benefits to Canada by full cooperation with the United States to help in a social question would lie in better feeling in the United States which would I am sure interpret itself in time into cooperation in other directions which would be of assistance to her.

There is no real solution to the problem unless the Canadian Government would undertake to prohibit shipment of all liquor to the United States. At the present time the great bulk of shipments (as per my official information 90%) are cleared directly for American ports. If the only shipments were upon false papers the traffic would greatly diminish as the smuggler would thus be in conflict and in danger from the laws of both countries.

Mr. Mackenzie King has recently taken an interest in the matter and expressed a desire to clear it up. The British Government also controls a certain amount of liquor flow into the United States through the West Indies, and some direct from British ports. The question therefore involves Great Britain directly also.

500.A15A3/307

Press Release Issued by the White House, October 10, 1929

The visit of the British Prime Minister to President Hoover, which is now terminated, had as its chief purpose the making of personal contacts which will be fruitful in promoting friendly and frank relations between the two countries. Both the President and the Prime Minister are highly gratified by the keen interest which the people of both countries have taken in the meeting, and regard it as proof of the strong desire of both nations to come to closer understanding. The British Prime Minister has been particularly impressed and gratified by the warmth of his welcome and the flood of expressions of good will which have poured upon him.

At the moment of leaving Washington the following joint statement was issued:

[JOINT STATEMENT BY PRESIDENT HOOVER AND THE BRITISH PRIME MINISTER (MACDONALD)]

"During the last few days we have had an opportunity, in the informal talks in which we have engaged, not only to review the conversations on a naval agreement which have been carried on during this summer between us, but also to discuss some of the more important means by which the moral force of our countries can be exerted for peace.

"We have been guided by the double hope of settling our own differences on naval matters and so establishing unclouded good will, candor and confidence between us, and also of contributing something to the solution of the problem of peace in which all other nations are interested and which calls for their cooperation.

"In signing the Paris Peace Pact fifty-six nations have declared that war shall not be used as an instrument of national policy. We have agreed that all disputes shall be settled by pacific means. Both our Governments resolve to accept the Peace Pact not only as a declaration of good intentions but as a positive obligation to direct national policy in accordance with its pledge.

"The part of each of our governments in the promotion of world peace will be different, as one will never consent to become entangled in European diplomacy and the other is resolved to pursue a policy of active cooperation with its European neighbours; but each of our governments will direct its thoughts and influence towards securing and maintaining the peace of the world.

"Our conversations have been largely confined to the mutual relations of the two countries in the light of the situation created by the signing of the Peace Pact. Therefore, in a new and reinforced sense the two governments not only declare that war between them is unthinkable, but that distrusts and suspicions arising from doubts and fears which may have been justified before the Peace Pact must now cease to influence national policy. We approach old historical problems from a new angle and in a new atmosphere. On the assumption that war between us is banished, and that conflicts between our military or naval forces cannot take place, these problems have changed their meaning and character, and their solution, in ways satisfactory to both countries, has become possible.

"We have agreed that those questions should become the subject of active consideration between us. They involve important technical matters requiring detailed study. One of the hopeful results of the visit which is now terminating officially has been that our two Governments will begin conversations upon them following the same method as that which has been pursued during the summer in London.

"The exchange of views on naval reduction has brought the two nations so close to agreement that the obstacles in previous conferences arising out of Anglo-American disagreements seem now substantially removed. We have kept the nations which took part in the Washington Naval Conference of 1922 informed of the progress of our conversations, and we have now proposed to them that we should all meet together and try to come to a common agreement which would justify each in making substantial naval reductions. An agreement on naval armaments cannot be completed without the cooperation of

other naval powers, and both of us feel sure that, by the same free and candid discussion of needs which has characterized our conversations, such mutual understandings will be reached as will make naval agreement next January possible, and thus remove this serious obstacle to the progress of world disarmament.

“Between now and the meeting of the proposed conference in January, our Governments will continue conversations with the other powers concerned, in order to remove as many difficulties as possible before the official and formal negotiations open.

“In view of the security afforded by the peace pact, we have been able to end, we trust for ever, all competitive building between ourselves with the risk of war and the waste of public money involved, by agreeing to a parity of fleets, category by category.

“Success at the coming conference will result in a large decrease in the naval equipment of the world and, what is equally important, the reduction of prospective programs of construction which would otherwise produce competitive building to an indefinite amount.

“We hope and believe that the steps we have taken will be warmly welcomed by the people whom we represent as a substantial contribution to the efforts universally made by all nations to gain security for peace—not by military organization—but by peaceful means rooted in public opinion and enforced by a sense of justice in the civilized world.”

033.4111MacDonald, Ramsay/141

Press Release Issued by the Department of State, October 11, 1929

SECRETARY STIMSON'S STATEMENT ON COMMENT IN THE PRESS ON
MACDONALD'S VISIT AND JOINT STATEMENT OF THE PRESIDENT AND
PRIME MINISTER MACDONALD

In reading comments upon the Prime Minister's visit and the joint statement which was issued on his departure I have noticed a statement which so completely misconceives and misrepresents the actual facts and the spirit of our conference that I can not let it pass without correction.

Mr. David Lawrence says that “Great Britain and the United States have in effect agreed to pool their navies to maintain the peace of the world”. During the whole of our conversations there was not a syllable of such a suggestion. The tenor of the conversations was exactly the reverse and I believe that the joint statement makes that perfectly clear. The understanding which we aimed at was a moral understanding. The influence which we are seeking to exert is a moral influence and not a military one. The basis of our discussions was the Kellogg-Briand Pact of Peace which aims at outlawing war

and all forcible means of compulsion of nations and which relies wholly upon the public opinion of the world as its sole sanction. This breathes throughout the entire joint statement made yesterday from the beginning where we say that we discussed some of the "means by which the moral force of our countries can be exerted for peace" down to the final sentence where we said that we were endeavoring to take steps which would be a contribution towards efforts for peace "not by military organization but by peaceful means rooted in public opinion and enforced by a sense of justice in the civilized world."

Nothing could have been further away from the truth than to suspect that we contemplated any joinder or pooling of our navies. No such idea was even broached or discussed.

033.4111MacDonald, Ramsay/113½

*The Private Secretary to the British Prime Minister (Vansittart)
to the Secretary of State*

OTTAWA, October 19, 1929.

DEAR MR. SECRETARY: AS we were leaving you asked me to send you a line on the Ottawa sequel to the Washington conversations. I take this first opportunity of doing so. We have still one more day here, but I expect you will be glad of early information since, owing to the fact that Mr. MacDonald's speech had to be delivered on the very day of his arrival it was not possible to cover much ground. No doubt Campbell gave you my advance message to this effect. I telephoned to ask him to do so. Since then there has been a little more time, and Mr. MacDonald has been able to give Mr. Mackenzie King a full account of the Washington proceedings, including of course the paragraphs which the President wished to add in regard to ships laden exclusively with foodstuffs. I may say that the idea of exempting foodships has been received here with a great deal of interest and will be examined in Ottawa as we promised it should be examined in London. You will have noticed also that Mr. MacDonald in his speech went a step ahead in foreshadowing the joint examination provided for in the first of the eliminated paragraphs.

The Prime Minister also discussed the question of the naval stations. It is, I think, clear from further close examination that the plan for the division of the world into two hemispheres will not be workable, and we shall have to think out some other way of laying the 'ghost' of the so-called menace of the naval stations.

The Canadian Government are willing in principle to announce simultaneously and jointly with us that their naval stations are not, and are not intended to be, a menace to the United States. This,

however, could only be done if the same statement were made reciprocally by the United States. If this is, in your view, impossible, the agreement would then be confined to the Caribbean area. The wording of this statement would as arranged be settled between us. Mr. Ramsay MacDonald will go into this matter immediately upon his return to London.

The intentions of the Canadian Government in regard to the refusal of clearance to vessels carrying liquor to the United States we found to agree with the last paragraph of the President's memorandum sent to me by Akerson on October 10th; and an announcement will be made in due course by the Canadian Government of the action it proposes to take.

I am [etc.]

ROBERT VANSITTART

**QUESTION OF ACCEPTANCE AS DEPORTEES FROM GREAT BRITAIN
OF PERSONS PRESUMED TO HAVE LOST AMERICAN CITIZENSHIP
ACQUIRED BY NATURALIZATION**

341.1124/26

The British Chargé (Chilton) to the Secretary of State

WASHINGTON, August 9, 1928.

SIR: I have the honour to inform you that His Majesty's Principal Secretary of State for Foreign Affairs has instructed me to draw attention to the question of the acceptance by the United States Government as deportees of persons who, having acquired United States citizenship by naturalisation, have subsequently resided for many years abroad.

In particular Sir Austen Chamberlain wishes me to draw attention to the case of a man named George Wilfred Goode. This man was convicted in 1918 on his own confession of landing without leave in the United Kingdom, and was recommended for expulsion. He claimed to be a citizen of the United States and it was ultimately discovered that his father, George Goode, who is now understood to reside at Pittsburg, Pennsylvania, had been naturalised on September 26th, 1896. The son had been taken to the United States in 1892 and had continued to live there until March 1918 when he enlisted in the British Army. He appeared to have lost his British nationality by virtue of his father's naturalisation, and application was made to the competent United States authorities for the necessary facilities for his journey to the United States. These facilities were, however, refused. It is understood that the competent authorities admitted that Goode acquired United States citizenship by virtue of his father's naturalisation, but took the view that by reason of his absence from

the United States and his residence in his native land since 1918 he had under Section 2 of the United States Act of March 2nd, 1907, become subject to the presumption that he had ceased to be a United States citizen, and further, that a naturalised citizen, as long as he is not in a position to overcome the presumption of loss of United States citizenship, must be regarded as "not a citizen".

The case of George Wilfred Goode has ceased to be of any practical importance by reason of his voluntary departure from the United Kingdom. His Majesty's Government are, however, anxious to clear up the general question involved. Section 2, the relevant section of the Act of March 2nd, 1907, reads as follows:

"When any naturalised citizen shall have resided for two years in the foreign State from which he came, or for five years in any other foreign State it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: Provided, however, That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or Consular Officer of the United States, under such rules and regulations as the Department of State may prescribe: And provided also, That no American citizen shall be allowed to expatriate himself when this country is at war".

His Majesty's Government fully recognise that the interpretation of the above Act is a matter which the United States judicial authorities alone are competent to determine. At the same time they venture to point out that the Act would not appear to them to give ground for refusal to accept a given individual as a deportee, inasmuch as the operation of the Act would not seem to amount to the revocation of a certificate of naturalisation, which may be considered a function of the courts under the provision of United States law. Further, it appears to His Majesty's Government that the Act of 1907 was specifically intended merely to assist the State Department in refusing protection abroad to naturalised citizens who, by residing out of the United States of America, avoid all the duties and obligations of citizenship. It does not appear to have been intended to apply to naturalised citizens who return to the United States. In this connection His Majesty's Government beg leave to quote the remarks of Mr. Perkins, who reported the Bill from the Committee, and had charge of the Bill in the House. In the course of the debate thereon he made the following statement (Congressional Record Vol. 41 pt. 2 p. 1466)

"The Statute provides that, having remained there five years continuously, there shall be a presumption which, unless he satisfies the officers of the State Department, their Consuls, or Ministers to the contrary, would authorise the State Department to refuse to extend him protection. It cannot affect any other rights which of course he can present in Court. No presumption is conclusive on a Court.

It is a mere presumption but the presumption would protect the State Department. There is the object of the Bill and the result of the Bill and the only result of it."

Further, in 1910 the United States Attorney General is understood to have given the following opinion as to the meaning of this Act in the case of a naturalised alien named Jabran Gossin who had resided abroad so long as to raise the presumption that he had lost his United States nationality. His opinion was as follows:²⁸

"I infer from your statement of the facts that before leaving Syria Jabran Gossin did not make proof before a consular or diplomatic officer of the United States as provided by the regulations of the State Department. The question then is whether the presumption as to non-citizenship raised by the act by reason of his residence abroad continues notwithstanding his return to the United States.

"In my judgment the Act was not intended to apply to a case of this kind but its operation is limited to naturalised citizens while residing in foreign countries. The purpose of this Act is, I think, simply to relieve the Government of the obligation to protect such citizens residing abroad after the limit of two or five years, as the case may be, when their residence there is not shown to be of such a character as to warrant the presumption that they intend to return and reside in the United States and thus bear the burdens as well as enjoy the rights and privileges incident to citizenship. Until the time limit has expired the presumption is that they intend to return; after that time it is presumed that they do not intend to return, and it becomes necessary in order that they may continue to have this Government protection, to show affirmatively in accordance with the regulations of the State Department made in pursuance of the Act, that it is their bona fide intention to return to the United States to live."

At the same time he added that:

"The fact that the act only authorises the submission of proof for the purpose of overcoming the presumption as to non-citizenship raised thereby to diplomatic and consular officers of the United States who necessarily reside abroad and makes no provision in respect to naturalised citizens coming within the purview of the act who return to the United States is a further evidence that Congress did not intend the act to apply to a case of this kind. To hold that it did, would produce the absurdity of a naturalised citizen seeking to re-enter the United States being held to have ceased to be such, and possibly denied admission, because he had failed to make proof before the proper diplomatic or consular officer abroad of his intention to return to the United States.

"As shown above, the presumption to non-citizenship raised by the act is created for the purpose of relieving the State Department of protecting naturalised citizens abroad when the conditions are apparently such as to indicate that they have no bona fide intention

²⁸ 28 Opinions of the Attorney General 504.

to return to and reside in the United States. When a citizen returns to the United States, the necessity for such protection no longer exists, and it is fair to assume that with the cessation of the necessity the presumption created by the Act also ceases.”

His Majesty's Government also beg leave to refer to the case of a man named K. E. Svensen, a British subject by naturalisation in Australia, whom the United States Government desired to deport to the Commonwealth. This man's case was dealt with in my predecessor's note of February 18th, 1920, and in previous correspondence.²⁹ In pressing this case Mr. Polk, the Acting Secretary of State, made the following statement: ³⁰

“This Government has in the past admitted, and stands ready in the future to receive, its nationals, native or naturalised, who may be deported, in accordance with the laws of any of the British Dominions. In view of this position, it is hoped that you will spare no effort to effect an understanding with the Australian authorities whereby there may be an interchange of deported aliens based on reciprocity.”

A similar case to that of Mr. Goode appears to have been that of a man named Adolph Aschengrau, a United States citizen by naturalisation. This man, whose case is understood to have been dealt with by the United States Embassy in London, was re-admitted as a deportee to the United States.

His Majesty's Government have desired me to lay before you the foregoing considerations in the hope that they may be enabled to arrive at an understanding with the United States Government of the general questions involved and I shall be most grateful if I may be informed in due course of the views of your Government.

I have [etc.]

(For H. M. Charge d'Affaires)

M. R. WRIGHT

341.1124/30

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, January 26, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of your Embassy's note of December 5³¹ making further inquiry concerning the question which was the subject of your Embassy's notes of August 9 and October 17, 1928,³² that is, the question whether naturalized citizens of the United States who brought upon themselves the presumption of the loss of citizenship through protracted residence abroad, under the provision of the second paragraph of Section 2 of the Act

²⁹ Note of February 18, 1920, and previous correspondence not printed.

³⁰ Note to the British Chargé, May 12, 1919, not printed.

³¹ Not printed.

³² Latter not printed.

of March 2, 1907, will be admitted to the United States as citizens thereof upon deportation from Great Britain. It is assumed that the inquiry relates to persons whose protracted foreign residence has not been due to one of the causes set forth in the regulations prescribed by the Department whereunder the statutory presumption may be overcome and whose proposed return to this country is due not to their own free will but to the action of the British authorities in deporting them.

Section 2 of the Act of March 2, 1907, reads as follows:

“That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign State in conformity with its laws, or when he has taken an oath of allegiance to any foreign State.

“When any naturalized citizen shall have resided for two years in the foreign State from which he came, or for five years in any other foreign State it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: Provided, however, That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: And provided also, That no American citizen shall be allowed to expatriate himself when this country is at war.”

Enclosed herewith are duplicate copies of the Department's Order of March 6, 1928,³³ in which the rules whereunder the statutory presumption may be overcome are prescribed. Particular attention is called to Rule (g), according to which the statutory presumption of loss of citizenship may be overcome by naturalized citizens upon their presenting to diplomatic or consular officers of the United States satisfactory evidence “that they have made definite arrangements to return immediately to the United States permanently to reside”. This rule has relation to naturalized citizens who, after having brought upon themselves the statutory presumption through protracted residence abroad and having failed to overcome such presumption under the other rules, have determined of their own free will to return to the United States for permanent residence and have made definite arrangements to do so immediately. It was not prescribed with reference to cases of persons who are sent back to this country under compulsion. Thus the intent of the individual concerned appears to be a factor which must be taken into account in determining his status under the law. It may be observed that this question of intent is emphasized by the Attorney General in the opinion concerning the case of Jabran Gossin, mentioned in the Embassy's note of August 9.

³³ Not printed; but see *Passport Regulations, Executive Order January 31, 1928* (Washington, Government Printing Office, 1928), p. 22, appendix E.

The matter of intent has also been emphasized by the courts in decisions involving the application of the statutory provision in question. See especially *Ex parte Gilroy*, 257 Fed. 110, *Nurge v. Miller*, 286 Fed. 982, and *Miller v. Sinjen*, 289 Fed. 388. The cases mentioned related to persons who had actually returned to the United States of their own free will. I regret to say that there seem to be no decisions of the courts concerning the question of the citizenship of persons who, having brought upon themselves the presumption mentioned, are unable to overcome it under the rules prescribed in pursuance of the statute, and are still residing abroad.

For the reasons mentioned the Department is not in a position to assure the Embassy that persons of the class mentioned would, upon deportation from Great Britain, be admitted to the United States as citizens thereof. If and when a concrete case involving this question arises, and it is brought to the attention of the Department, the question whether a passport of the United States or consular registration certificate may be granted to the deportee will be considered.

Accept [etc.]

For the Secretary of State:
WILBUR J. CARR

341.1124/31

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, April 9, 1929.

EXCELLENCY: I have the honor to refer to your note of October 17, 1928,³⁴ regarding the question of acceptance by the United States Government as deportees from Great Britain of persons who having acquired American citizenship by naturalization, have subsequently incurred the presumption of loss of citizenship, under the provisions of Section 2 of the Act of March 2, 1907, through protracted residence abroad, and to my note of November 9, 1928,³⁴ informing you that this question was under consideration by the appropriate branches of the Government.

I had received a letter from the Secretary of Labor in which he informs me that his Department is of the opinion that the appearance at a port of entry of the United States under an order of deportation of the British Government of a person against whom the statutory presumption of loss of citizenship has arisen would not, of itself, be sufficient to overcome the presumption and would not justify the Department of Labor in admitting such a person as an American citizen. He further states that it would appear reasonable to assume that the question of the weight to be given to the fact of return to this country

³⁴ Not printed.

in overcoming the statutory presumption does not arise in the case of a person who is returning solely by reason of compulsion under an order of deportation.

Accept [etc.]

For the Secretary of State:

WILBUR J. CARR

**RECIPROCAL CUSTOMS PRIVILEGES ACCORDED TO AMERICAN
AND BRITISH CONSULAR OFFICERS**

641.11241/58

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 3123

LONDON, October 19, 1928.

[Received October 31.]

SIR: I have the honor to bring to the attention of the Department some correspondence which has been exchanged between this Embassy and the Consulate General and between the Embassy and the Foreign Office on the subject of customs and taxation privileges for United States consular officers in Great Britain.

The first enclosure is a copy of a letter from Mr. L. C. Pinkerton, the American Consul in Charge of the American Consulate General in London, dated September 18, 1928,³⁵ in which the Embassy is asked to obtain a ruling from the Foreign Office for distribution to the consular officers in Great Britain on the question of customs courtesies on personal and other effects of consular officers coming to England the first time. With this letter was enclosed a copy of a communication addressed by Robert P. Skinner, the American Consul General, to the Honorable Frank B. Kellogg, American Ambassador, on September 29, 1924, on this general subject.³⁵

Upon receipt of this communication the Third Secretary of the Embassy was sent to the Foreign Office to discuss informally the question with the official in charge of such matters at the Foreign Office. The Secretary left with Mr. Warner, the gentleman in question, a memorandum on this subject, dated September 19, 1928, as a basis for discussion.³⁵ A copy of Mr. Skinner's letter of September 29, 1924, was also furnished to Mr. Warner.

The Embassy is now in receipt of an informal communication dated October 11, 1928, from the Foreign Office,³⁵ commenting on the Third Secretary's memorandum and explaining in detail the Foreign Office's views on this question.

It will be observed that the British practice does not coincide with the American practice as regards customs privileges, et cetera, in

³⁵ Not printed.

that they are not extended to vice consuls. Inasmuch as it is the understanding of the Embassy that such questions are based on reciprocity, the views of the Foreign Office, as outlined in its communication of October 11, 1928, are being brought to the attention of the Department.

I have [etc.]

RAY ATHERTON

641.11241/58

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

No. 1623

WASHINGTON, December 12, 1928.

SIR: The Department has received Mr. Atherton's despatch No. 3123 dated October 19, 1928, on the subject of customs and taxation privileges for United States consular officers in Great Britain.

It has been noted that the British practice in regard to customs privileges for American consular officers does not provide for the extension of the privilege of free entry for the articles which American Vice Consuls may bring with them for their personal use upon their first arrival in Great Britain.

Under existing regulations in the United States, British Vice Consuls assigned to this country enjoy the same customs privileges as other foreign consular officers, that is, free entry upon arrival of whatever they may bring with them for their personal or family use, with the exception of articles the importation of which is prohibited by the laws of the United States, and the same privileges upon return to their posts in the United States after leave of absence spent abroad. Moreover, if for some good reason it is not practicable for a consular officer to have his effects accompany him upon arrival the effects are accorded free entry in this country when they do arrive.

As stated in Mr. Atherton's despatch of October 19, 1928, the American regulations in respect of customs privileges for consular officers are based on reciprocal treatment for American consular officers abroad. If, therefore, the British Government can not see fit to extend customs privileges to American Vice Consuls it will become necessary for this Government to withhold from British Vice Consuls assigned to the United States the customs privileges which are now being extended. The Department feels that perhaps the British Government is not aware of the nature of the American regulations in this regard and on that account it is reluctant to advise the Treasury Department to withdraw the customs privileges now enjoyed by British Vice Consuls in the United States without assurance that the British Government fully understands this situation. You are accordingly requested to address an official note in the foregoing sense to the Foreign Office and to inquire whether, in the cir-

cumstances, it may not be found practicable to extend customs privileges to American Vice Consuls in Great Britain on an equal footing with those now extended to other consular officers. You will state in your note that if it is not found possible to extend such privileges to American Vice Consuls, it will of course be necessary to withhold such privileges from British Vice Consuls in the United States.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

641.11241/59

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 3688

LONDON, June 4, 1929.

[Received June 13.]

SIR: Referring to the Department's instruction No. 1623 of December 12, 1928, on the subject of customs and taxation privileges for the United States Consular Officers in Great Britain, I have the honor to advise the Department that an official note was sent to the Foreign Office on December 27, 1928, a copy of which is enclosed,³⁷ inquiring whether it might not be found practicable to extend customs privileges to American Vice Consuls in Great Britain on an equal footing with those now extended to other Consular Officers.

On April 23, 1929, a reply was received from the Foreign Office in which the Embassy was informed that His Majesty's Government in the United Kingdom have decided that their treatment of United States Vice Consuls of career shall, in the future, be the same as that which is at present accorded to United States Consular officers of career of the grade of Consul General and Consul. A copy of the note in question is transmitted herewith.³⁷

Upon receipt of this information I directed a further verbal inquiry to the Foreign Office, asking whether this treatment would be accorded to United States Vice Consuls of career in other parts of the British Empire. To this inquiry I have as yet had no reply, although the matter has been taken up on various occasions with the appropriate officials in the Foreign Office.

I am hoping that the British Government will inform me in the near future of its decision in this matter, but in the meantime a copy of the Foreign Office note of April 23, 1929, has been sent to the American Consul General in London who has, in turn, informed Consular offices in Great Britain and Northern Ireland of the decision reached by the British Government.

I have [etc.]

RAY ATHERTON

³⁷ Not printed.

641.11241/61

The Ambassador in Great Britain (Houghton) to the Secretary of State

No. 177

LONDON, August 21, 1929.

[Received August 31.]

SIR: Adverting to the Embassy's despatch No. 3688 of June 4, 1929, I have the honor to inform the Department of the receipt of a note from the Foreign Office, No. T9075/29/373 of August 17, 1929 (copies of which together with its enclosure are transmitted herewith),⁸⁸ stating that as far as the Dominions are concerned (with the exception of Canada) Vice Consuls of career are granted free entry for their personal effects on their first arrival to take up their appointments, and in the case of Australia they may import goods within six months of their arrival in that Dominion. As regards Canada, inquiries have been made by the Foreign Office at Ottawa but as yet no definite information is available.

It will also be noted that the Colonial Office have been asked to notify the Governments of the various British Colonies and Protectorates to accord first arrival privileges to United States Vice Consuls of career, and corresponding action will be taken in the case of India.

I have [etc.]

For the Ambassador:

F. L. BELIN

First Secretary of Embassy

**PROTECTION OF AMERICAN LIVES AND PROPERTY IN PALESTINE
ENDANGERED BY CONFLICT BETWEEN ARABS AND JEWS**

867n.404Wailing Wall/1 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 23, 1929—6 p. m.

[Received August 23—1:43 p. m.]

Renewed Wailing Wall incidents have given rise to conflicts throughout old and new Jerusalem between Arabs and Jews. A number of casualties both sides reported. The authorities are doing everything possible to control the situation. Several aeroplanes were circling low over the city this afternoon. Telephone service has been suspended. Further details later.

KNABENSHUE

⁸⁸ Not printed.

867n.404Wailing Wall/24 : Telegram

*The Acting Secretary of State to the Consul General at Jerusalem
(Knabenshue)*

WASHINGTON, August 24, 1929—1 p. m.

Your August 23, 6 p. m. Keep Department informed by telegraph. Department presumes that no injury has been done to American citizens or their property.

CARR

867n.404Wailing Wall/5 : Telegram

*The Consul General at Jerusalem (Knabenshue) to the Secretary
of State*

[Paraphrase]

JERUSALEM, August 24, 1929—7 p. m.

[Received 10:52 p. m.]

During the past 24 hours, a serious situation has been developed by Moslem attacks on Jews. The police are entirely inadequate, though they have been augmented by armed civilian volunteers, and the Government here is losing control of the situation. There is no confirmation yet of rumors regarding deaths of American citizens, but all the hospitals are filled to capacity with casualties and Jewish refugees are fleeing to the city from Jerusalem's outlying districts.

Thirty-three American Jews, mostly women and children, have come to the consulate general for shelter and have requested asylum until it is safe to return to their homes.

This morning the consular corps formulated demands for presentation by the dean of the consular body to the British Acting High Commissioner as follows:

- (1) Adequate protection of foreign nationals.
- (2) Protection of consulates.
- (3) Police passes to be provided consular personnel, since martial law has been declared.
- (4) Resumption of consular telephonic service, which has been suspended for all governmental offices.

The second, third, and fourth demands have been granted, with the assurance added that the situation will be under control by tonight. Officials privately feel, however, that tonight may be critical, followed by improvement tomorrow.

Responding to my request for aid to provide for the refugees at present in the consulate general, the Government's reply was that it could do nothing and would not assure me of their safety if they

returned to their homes, and it was stated merely that two armored cars are on patrol in their particular part of the city. I shall keep the refugees at the consulate general pending clarification of the situation.

It is my opinion that the Moslem attacks were precipitated by provocative acts of the Jews and that disturbances throughout the whole country will rapidly become general and brigandage will become rife if adequate forces are not rushed here from Egypt. I request a telegraphic acknowledgment.

KNABENSHUE

867n.404Wailing Wall/22: Telegram

*The Acting Secretary of State to the Consul General at Jerusalem
(Knabenshue)*

[Paraphrase]

WASHINGTON, August 25, 1929—3 p. m.

Your August 24, 7 p.m., was received last night at 10:52 o'clock. It should be emphasized by you with the competent British authorities that they are responsible for protecting American lives and property in Palestine.

CARR

867n.404Wailing Wall/6: Telegram

*The Consul General at Jerusalem (Knabenshue) to the Secretary
of State*

JERUSALEM, August 25, 1929—8 p. m.

[Received August 25—5:11 p. m.]

Moslem attacks on Jews at Hebron Friday and Saturday,⁴¹ resulting in 45 Jews killed, 51 seriously wounded, 20 slightly wounded, of which Mr. Simon, of the consulate general, recognized a number of wounded and 12 dead, all American students at Slobodka-Talmudic school.⁴² Their names will be secured and telegraphed later.

Talpioth, Jewish suburb Jerusalem where several American families resided, was evacuated without casualties and homes afterward looted by Moslems.

KNABENSHUE

⁴¹ August 23-24.

⁴² Slobodka Yeshivah, the Talmudic school at Hebron.

867n.404 Wailing Wall/8 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 25, 1929—10 p. m.

[Received August 25—8:07 p. m.]

Continued disturbances Jerusalem and vicinity last night. Numerous casualties. One synagogue and several homes burned. Three aeroplanes circled Jerusalem this morning disbursing [*dispersing*] with machine gun fire approaching bands of Moslem villagers. About 50 British troops arrived by aeroplanes last evening from Egypt and 600 by train this afternoon, which is expected to improve the situation in Jerusalem tonight. Americans who took refuge in the consulate general last night returned to homes today.

Total casualties to date estimated at about 100 killed and more than 300 wounded.

Telaviv today attacked by Moslems from Jaffa but the timely arrival of British troops reported to have saved the situation and British war vessel is expected to arrive there tomorrow. Disturbances reported to have commenced in other sections of the country.

KNABENSHUE

867n.404 Wailing Wall/23 : Telegram

The Secretary of State to the Ambassador in Great Britain (Davies)

WASHINGTON, August 26, 1929—11 a. m.

223. American Consul General at Jerusalem reports serious disorders in Palestine as a result of which twelve Americans have been killed at Hebron and others wounded. You should without delay orally express to the Foreign Office the Department's earnest hope that immediate and comprehensive steps may be taken for the restoration of order and for the protection of the lives and property of American citizens. Please telegraph results of your representations.

STIMSON

867n.404 Wailing Wall/27 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 26, 1929—9 p. m.

[Received 11:54 p. m.]

British authorities sent armed convoy Hebron today to evacuate Jewish noncombatants guarded in Hebron police barracks. British authorities promised to evacuate Americans and I sent Simon, Jewish

member of the consulate general, with a convoy to obtain list of names of all American citizens, including dead and wounded, and to assist evacuation of the living. All Americans are now evacuated except 14 students and 2 others who refused to leave without the other students, but it is hoped to secure their evacuation tomorrow.

KNABENSHUE

867n.404Wailing Wall/21 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 26, 1929—10 p. m.

[Received August 27—2:03 a. m.]

Following complete list American citizens whose deaths verified by consulate general: [William] (Wolf) Berman, Philadelphia; David Shunberg [*Shainberg*], Memphis; Bennie [*Benjamin*] Hurwitz, Chicago [*Brooklyn, N. Y.*]; Harry Froman, New York City; [William] (Wolf) Greenberg, Brooklyn; Hyman Krassner, Chicago [*New York?*]; Aaron David Epstein, Chicago; Jack [*Jacob C.*] Wexler, Chicago.

Following are seriously wounded Americans: Samuel Senders [*Sanders?*], Chicago; Mrs. Bernstein Sokolover, both in Jerusalem; David Winchester, Elizabeth, New Jersey, in Hebron.

Following slightly wounded Americans: Mordechai Barg, New York City; Shachne Koleditsky, Brooklyn; Emanuel and Solomon Goodman, brothers, Cleveland; Israel Snow, Brooklyn; Baruch Kaplan, New York City; Nathan Goodman, Philadelphia; Solomon Kushner, New York City; Bennie Cohen, Seattle; Moses Gold, San Francisco. All still at Hebron and Harbater brothers (two) in Jerusalem.

Following Americans at Hebron unhurt: Aaron Bernzweig and wife Breine, Jersey City; Gittel Barg, New York; Morris Berman, Philadelphia; Ralph Bekoven [*Raoul De Koven?*], Chicago.

KNABENSHUE

867n.404Wailing Wall/28 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 26, 1929—11 p. m.

[Received 11:58 p. m.]

Scattered firing outskirts city and a few incidents within city last 24 hours but the situation Jerusalem now generally improved. British authorities informed me this afternoon British battleship *Barham* arriving tomorrow morning and will land 900 men and also air

craft carrier *Courageous* with 4 companies troops and that 1,000 troops would also arrive tomorrow by rail from Egypt. Inasmuch as Moslem attacks against the Jews, although now widespread in Palestine, have not the support of their religious and other important leaders and partake of the character of mob violence, troops expected to arrive by tomorrow night should materially assist in a few days suppressing the disorders.

KNABENSHUE

867n.404Walling Wall/228

Memorandum by the Chief of the Division of Near Eastern Affairs (Shaw)

[WASHINGTON,] August 27, 1929.

In replying to the Zionist Delegation the Secretary said that he appreciated the remarks which had been made by the spokesmen of the Delegation. Needless to say, he wished to express sympathy at the blow sustained by the Jews in Palestine and at the suffering which they were undergoing. The Secretary said that he had many old and dear friends among those interested in the Zionist Movement. His duty, however, was to protect American citizens. He was glad of an opportunity to tell the Delegation of the steps which had been taken by the Department with this object in view. Our Consul at Jerusalem had been very active and without waiting for instructions had at once appealed to the local authorities for protection. On Sunday we had instructed the Consul to emphasize the importance of this protection. Yesterday the Secretary said he had taken the unusual step of instructing our Embassy at London to urge upon the British Government that the measures taken for the restoration of order in Palestine and for the protection of American lives and property should be of the broadest character. From the reports which we have received it is clear that this is just what the British are doing. Troops have already arrived and many more are arriving momentarily. The Secretary concluded by saying that we would do all that was possible for the protection of Americans and for ultimate relief.

G. H[OWLAND] S[HAW]

867n.404Walling Wall/37: Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, August 27, 1929—3 p. m.

[Received August 27—2:48 p. m.]

246. As directed in your 223, August 26, 11 a. m., I called at the Foreign Office and expressed your earnest hope that immediate and

comprehensive steps would be taken for the restoration of order and for the protection of the lives and property of American citizens in Palestine. The Foreign Office assured me that every effort is being made and will be made to restore order and to protect American lives and property. They stated that the Trans-Jordan forces have been used to prevent the Arabs from infiltrating across the river and making things worse. They said that a British battalion abroad consists of about 700 men and a battalion has been sent to Palestine from Egypt and a battalion and a half from Malta. The cruisers *Barham* [and] *Sussex* and [the] *Courageous* have probably arrived at Palestine by this time. The above is the statement of Sir Ronald Lindsay, the Under Secretary of State for Foreign Affairs.

The following information was given by an official of the Colonial Office, which handles Palestine affairs, who stated that the situation was serious but not one to cause undue alarm. Possibly the greatest difficulty, he said, was in maintaining law and order in the small villages and settlements throughout Palestine. The disorders had been the result of a revival of the chronic feud between the Arabs and the Jews which started this time with the Wailing Wall clash. The Government was taking no chances and had ordered more troops than would most likely be necessary to Palestine. He believed that as a result the trouble would be soon straightened out. The remark was made that from the point of view of protecting American interests in Palestine it was fortunate that the Government had fast cruisers at Malta to send.

DAWES

867n.404Wailing Wall/47: Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 27, 1929—9 p. m.

[Received 9:57 p. m.]

All American citizens at Hebron as listed in my August 26, 10 p. m., now safe in Jerusalem. Please notify relatives.

KNABENSHUE

867n.404Wailing Wall/67: Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, August 28, 1929—4 p. m.

[Received August 28—1:32 p. m.]

248. I called again at the Foreign Office this morning *in re* Palestine, having noted press despatches to effect Arabs in Trans-Jordania

were organizing to move into Palestine. Sir Ronald Lindsay then explained the method of air patrol in this section which he stated is effectively organized and in position to break up organized movements in open country in a way impossible in city districts.

While no intimation as to such a step has been given by British Government in its review of the situation, consideration might be given to the moving of some available American cruiser to a point nearer Palestine to be on hand in case of unexpected but possible emergency endangering American lives and property.

DAWES

867n.404Wailing Wall/76 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, August 28, 1929—midnight.

230. Your 246, August 27, 3 p. m. Consular Corps at Jerusalem have informed their respective governments that in spite of reiterated requests no special protection has been accorded consulates and it has been impossible to secure the presence of an agent of the public force at the doors of the Consulates. You should urgently bring this situation to the attention of the Foreign Office and you should request that suitable measures for the protection of the American Consulate General be taken with the least possible delay.

STIMSON

867n.404Wailing Wall/83 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, August 29, 1929—noon.

231. Referring to your telegram No. 248, August 28, 4 p. m. Any suggestion that an American cruiser be sent to Palestine has been discouraged by me in the press, on the ground of possibly offending the British authorities which have acted apparently with energy and vigor. Furthermore, no American cruiser is available in European waters. I do not think, under these circumstances, that this Government would wish to consider the dispatch of a cruiser to Palestine unless circumstances arose to make it clear that sending one not only would not be unwelcome to Great Britain but would be strongly desired. No request has been received from the American Consul General at Jerusalem for any such assistance.

STIMSON

867n.404Wailing Wall/77 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, August 29, 1929—5 p. m.
[Received August 29—1:40 p. m.]

249. Answering your 230, August 28, midnight. I called this morning at the Foreign Office, requesting as directed that suitable measures be taken for the protection of the American consulate general at Jerusalem at the earliest possible date. The Foreign Office stated that it would at once ask the Colonial Governor to telegraph Jerusalem to report to them and to comply with the request contained in your No. 230 if possible. Will cable you again on receipt of word from the Foreign Office which they will give on reply to their telegram to Jerusalem.

DAWES

867n.404Wailing Wall/130 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 30, 1929—10 p. m.
[Received August 31—1:22 a. m.]

Department's August 28, 8 p. m.⁴³ Four British troops stationed today at the consulate general for its protection.

KNABENSHUE

867n.404Wailing Wall/128 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, August 30, 1929—12 p. m.
[Received August 31—4:09 a. m.]

As occurring events have been adequately covered lately by the press, although perhaps somewhat exaggerated and not always entirely correct, I have discontinued such reports unless they should be of special interest or significance.

Measures now taken in Jerusalem believed to be sufficient to maintain public security within the city in spite of the fact that as I write numerous machine-gun and rifle shots are heard fired in the outskirts of the city.

The menace from Trans-Jordan is not now so dangerous and the British general commanding believes that, with his present force of 2,000 troops together with about 1,000 marines, he will be able to clear

⁴³ Not printed; it transmitted text of telegram No. 230 of August 28, midnight, to the Ambassador in Great Britain, p. 53.

up the situation, but I believe that continued disorders will continue in outlying localities throughout the country for some time before general public security is finally reestablished; and I still insist that as there are many important localities still unprotected, in some of which American lives and property are in danger, more troops should be sent to clear up the situation quickly instead of slowly which would inevitably result in the further destruction of lives.

KNABENSHUE

867n.404 Walling Wall/139 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

[Paraphrase]

JERUSALEM, September 1, 1929—4 p. m.

[Received 9:32 p. m.]

At the request of the British High Commissioner, who returned August 29, I had a long, friendly, cordial conversation this morning with him. He confidentially confirmed the facts as to appointment of a commission of inquiry (reported in my August 30, 10 p. m.⁴⁴). Not one Moslem, he said, had expressed regret for either the disturbances or their consequences, while even the Grand Mufti's early efforts to quell the Moslems were due to the emphatic instructions issued by the Government to him. I expressed to him substantially the statement in the last paragraph of my August 30, 12 p. m., and he replied that the Egyptian situation is none too reassuring and that he was uninformed as to what would be the Labor Government's attitude in London in regard to sending additional troops to Egypt and Palestine.

KNABENSHUE

467n.11/1 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, September 4, 1929—6 p. m.

[Received September 5—12:15 a. m.]

Consular corps today requested High Commissioner to take into consideration the question of indemnification for damages suffered by foreigners as a result of the recent disturbances and to inform it of the procedure to be followed in the verification of the damages and in the presentation of claims.

KNABENSHUE

⁴⁴ Not printed.

867n.404Wailing Wall/190 : Telegram

*The Secretary of State to the Consul General at Jerusalem
(Knabenshue)*

WASHINGTON, September 6, 1929—3 p. m.

For your information and for use in the event that inaccurate reports are circulated in the press or elsewhere, the following remarks were made today by the Secretary in replying to a delegation of American citizens representing the Palestine National League, the New Syria Party and the Young Men's Moslem Society which called to express their views concerning the claims of Arab nationalism and the future of Palestine:

"I am glad of an opportunity to speak with you concerning the tragic events which have been taking place in Palestine. I am confident that you share the deep regret which is felt by this Government and by all American citizens at the loss of life and the suffering which have accompanied those events. I am gratified to note that order is being rapidly and completely restored, and while it would not be proper for me to comment upon the views which you have set forth concerning the future of Palestine, it is entirely fitting that I should emphasize my conviction that the cause of civilization, the cause of better understanding among peoples of different races and religions is never served by violence and recrimination. It is my earnest hope that, as soon as order has been fully restored, the competent and responsible authorities animated by a sincere desire to do justice to all parties concerned, will be able to bring about peace and cooperation. If your Delegation can play a part in emphasizing those qualities of moderation and thoughtfulness which are so needed in any approach to the present problems of Palestine, you will have served an eminently useful and an eminently American purpose."

STIMSON

367n.1113Ganani, Samuel/6 : Telegram

*The Secretary of State to the Consul General at Jerusalem
(Knabenshue)*

WASHINGTON, September 14, 1929—2 p. m.

Your August 25, 8 P. M. reported twelve American citizens killed at Hebron. Eight of these are listed in your August 26, 10 P. M. and your telegram of September 11th⁴⁵ reported Samuel Genandi [*Ganani?*] as having died from wounds. Urgently telegraph names of any American citizens killed other than those listed in two telegrams mentioned above.

STIMSON

⁴⁵ Not printed.

367n.1113Ganani, Samuel/7 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, September 17, 1929—6 p. m.

[Received September 17—5:20 p. m.]

Department's September 14, 2 p. m. The eight persons listed in my telegram August 26, 10 p. m., are the only Americans whose deaths have been confirmed.⁴⁶ Four of the twelve persons reported in my telegram August 25, 8 p. m., later proved to be sons of alien residents and Canadians. Samuel Genani [*Ganani?*] is said by his widow not to be an American citizen.

KNABENSHUE

867n.404Wailing Wall/229 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, September 19, 1929—7 p. m.

[Received September 20—1:02 a. m.]

At the request of Felix Warburg and Bernard Flexner of New York, through Mr. Mohl, their Jerusalem representative, I had informal conversation with the High Commissioner today in order to ascertain his opinion as to whether it would be permissible for a prominent American lawyer to appear before the forthcoming British Commission of Inquiry as counsel for Jewish-American interests, it being represented to me that arrangements had already been made for counsel for Jewish-British interests to appear before the Commission. The High Commissioner informed me that this was a matter entirely for the decision of the Commission in accordance with any instructions that might be given to it by the Colonial Office in London and that the American parties interested would have to make appropriate representations to the Colonial Office. The High Commissioner is informing the Colonial Office of our personal informal conversation.

I informed Mohl that I would report the result of my conversation to the Department and that Flexner and Warburg would have to apply to the Department. It is my understanding that these gentlemen for some unknown reason wish it to appear that my conversation with the High Commissioner was upon my own initiative and not [at] their instigation and that they are going to Washington tomorrow to discuss this and other relative matters with the

⁴⁶ Harry Froman proved, however, to be a Canadian (367n.4213 Froman, Harry/8).

Secretary of State personally. I would respectfully suggest that they be informed only of the High Commissioner's reply to me and not the rest of this message.

So many American Jews have insisted to me upon American representation at the forthcoming inquiry that it would probably allay much Jewish-American criticism here and in the United States against what they might claim to be our Government's indifference if the Warburg-Flexner proposal could be arranged. If counsel is not permitted to appear before the Commission, doubtless there would be no objection to the presence in Jerusalem of an American attorney to assist in the preparation of the Jewish case. On the other hand it would appear to be inadvisable for the United States to make official representations in this matter to the British Government, for such action would undoubtedly create resentment against us here and in other Moslem countries.

KNABENSHUE

867n.404Wailing Wall/234 : Telegram

*The Secretary of State to the Consul General at Jerusalem
(Knabenshue)*

[Paraphrase]

WASHINGTON, September 20, 1929—6 p. m.

Felix M. Warburg yesterday called at the Department, but he said nothing of the matter reported in your September 19, 7 p. m., which at the time of his visit had not yet been received. In view of this, the Department will take no initiative in communicating to him the results of the informal conversation you had with the British High Commissioner.

You will please refer to the Department any request received to assist in obtaining representation for American-Jewish interests in regard to the forthcoming inquiry by the British commission.

STIMSON

867n.404Wailing Wall/255

*Memorandum by the Chief of the Division of Near Eastern
Affairs (Shaw)* ⁴⁷

[WASHINGTON,] September 23, 1929.

Rabbi Wise ⁴⁸ called to ask the Secretary's views with respect to the American Zionists retaining the services of a prominent Amer-

⁴⁷ Marked "O K" by the Secretary of State.

⁴⁸ Stephen S. Wise, of New York.

ican lawyer to assist in presenting the Jewish point of view before the Shaw⁴⁹ Commission of Investigation. Rabbi Wise felt that in view of the killing of American citizens in the course of the Palestine troubles this move would be eminently proper. The Secretary said he could see no objection to Rabbi Wise's suggestion, it being distinctly understood that the American lawyer chosen had no official status and that the steps necessary to enable him to appear before the Shaw Commission should be taken by the American Zionist Organization in collaboration with the Jewish Agency in London and the British Colonial Office. It was pointed out to Rabbi Wise that the presenting of the Jewish or Zionist point of view before the Commission of Investigation was one thing and the presentation before the competent authorities of private claims for damages on account of the killing of American citizens was something quite different and the two should not be confused. It was suggested to Rabbi Wise that to argue that because eight American citizens had been killed in Palestine therefore the American Government was under some sort of obligation to assist in presenting the Zionist side before the Commission of Investigation was clearly fallacious reasoning. Why should the American Government assist in presenting either the Jewish or the Arab side? If on the other hand the competent Zionist authorities desired to retain the services of an American, a German or a Polish lawyer to assist Sir F. Boyd Merriman that was entirely a matter to be settled through the Jewish Agency and the Colonial Office.

G. H[OWLAND] S[HAW]

867n.404 Walling Wall/240 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, September 25, 1929—1 p. m.
[Received September 25—10:55 a. m.]

Reference my September 19, 7 p. m.; Department's September 20, 6 p. m.; my September 21, 5 p. m.⁵⁰

The High Commissioner sent to me today, for my personal information, copy of telegram addressed to the Palestine Government, Palestine-Zionist Executive, and Palestine-Arab Executive, from the Palestine Commission of Inquiry. The salient points of the telegram are as follows:

1. The terms of reference to the Commission are: "To inquire into the immediate causes which led to the recent outbreak in Palestine,

⁴⁹ Sir Walter Shaw, Chairman.

⁵⁰ Telegram of September 21 not printed.

and to make recommendations as to the steps necessary to avoid the [a] recurrence.”

2. The inquiry is not a public judicial proceeding and therefore inexpedient to permit counsel for purposes of addressing the Commission or of cross-examining witnesses.

3. Commissioners consider it desirable, however, that the principal parties interested be represented when witnesses are examined and say that it would be of greater assistance to the Commission if some person could be appointed on behalf of the interested parties to collect and present such evidence as those parties may desire to submit to the Commission and to make such representations as they may desire to offer as to the course of the inquiry.

4. The Commissioners expect to arrive at Jerusalem on October 10th.

KNABENSHUE

867n.404 Wailing Wall/244 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, October 7, 1929—10 a. m.

[Received 11:40 a. m.]

My September 25, 1 p. m. The High Commissioner has informed me:

1. That his Government has compromised with Jewish demands and will permit counsel to ask pertinent questions of witnesses but not plead case.

2. That he has asked for counsel to defend Palestine Government officials.

3. That likewise Arabs will be represented by British counsel, and

4. That Commission, delayed by negotiations, will arrive on October 24.⁵¹

KNABENSHUE

467n.11/11 : Telegram

The Consul General at Jerusalem (Knabenshue) to the Secretary of State

JERUSALEM, October 18, 1929—2 p. m.

[Received October 18—9:45 a. m.]

Inasmuch as the local law does not seem to afford adequate damages for injuries and loss of life suffered during the recent disturb-

⁵¹ For the report of the Commission, see Great Britain, Cmd. 3530 (1930), *Report of the Commission on the Palestine Disturbances of August, 1929.*

ances and since the character of the disturbances and other elements involved therein might justify international claims, will the Department please instruct me by telegraph whether I should make reservations in this respect to the Palestine Government before the expiration of the 2 months' limit?

KNABENSHUE

467n.11/12: Telegram

The Secretary of State to the Consul General at Jerusalem
(Knabenshue)

WASHINGTON, October 22, 1929—1 p. m.

Your October 18, 2 p. m. While the Department considers that American citizens should take advantage of the opportunity to have their claims passed upon by the Commissioner, it does not consider that any claim for injury to person or property of an American citizen would be barred from further consideration on its merits if it should develop that the award of the Commissioner is inadequate or that insufficient time has been allowed for presentation of the claim. You may so inform the Palestine Government.

STIMSON

**REPRESENTATIONS FOR PROTECTION OF AMERICAN RIGHTS UNDER
PALESTINE MANDATE CONVENTION IN CONNECTION WITH BIDS
FOR CONSTRUCTION OF HARBOR WORKS AT HAIFA**

867n.156/8

The Consul at Jerusalem (Heizer) to the Secretary of State

No. 1814

JERUSALEM, July 24, 1928.

[Received August 15.]

SIR: I have the honor to report to the Department that according to information received from London the construction of the Harbor Works at Haifa is not to be undertaken by the Government of Palestine as originally intended, but is to be built by contract. The Government expresses the hope that it will be possible to have the tenders submitted by the end of November, 1928.

For the construction of this harbor at Haifa over five million dollars have been set aside from the recent loan contracted by the Government of Palestine.

It is believed that American contractors may wish to make tenders for the work. Specifications have been asked for and as soon as obtained will be forwarded to the Department.

The following particulars are published with regard to the harbor at Haifa which it is now reported is to be built by contract.

"The Harbor is to be formed by a breakwater 8000 feet in length, running N. W. by S. E. from Ras el Krum point. The existing jetty will be extended towards the end of the breakwater. The breakwater is to be built of local stone quarried in the neighborhood of Athlit.

Within the area of approximately 200 acres thus enclosed, vessels of 30 feet draught will be protected against gales and bad weather. Berthing facilities will be provided along the inside of the breakwater for about two thirds of its length, and, when the use of the Harbor warrants it, the 6000 feet of shore frontage will also be developed for quayage.

The ultimate development of the scheme will therefore give nearly 12,000 feet of berthage.

The task of determining the best alignment of the quays and breakwaters is a difficult and lengthy operation. A large number of borings are being made. Most of these borings have to be taken from floating craft and owing to rough weather the work has been much delayed.

Serious difficulties have also been met in finding a suitable site at which to establish a quarry for the stone required in the construction of the breakwaters. The whole country within twenty miles of the harbor site has been explored and trial excavations have been made at many places. The possible sites have now been limited to two and the final choice depends on investigations which are now proceeding into the comparative cost of quarrying and transport of stone at the two sites.

Government will also consider in the light of all the facts that will become available during the course of this summer what is the best method of construction.

In spite of all difficulties it is expected that the final plans will be ready by the autumn and it is hoped that the work of construction will be put in hand before the end of this year."

I have [etc.]
File No. 815.6

OSCAR S. HEIZER

867n.156/10

The Vice Consul at Jerusalem (Gilman) to the Secretary of State

No. 1872

JERUSALEM, October 20, 1928.

[Received November 9.]

SIR: I have the honor to refer to this office's despatch No. 1814 of July 24, 1928, File No. 815.6, relative to the construction of the harbor works at Haifa, in which the Department was informed that the construction of Haifa harbor was not to be undertaken by the Palestine Government as originally intended, but was to be done by contract and that as soon as plans and specifications were available they would be forwarded to the Department for the information of American firms interested in submitting tenders.

Under date of July 23, 1928, the Chief Secretary of the Government of Palestine was requested to advise this Consulate when invitations

to firms interested in submitting tenders would be ready to be sent, and to furnish the Consulate with copies of the plans and specifications of the work to be done as soon as they were available. The Consulate's letter was acknowledged by the Secretariat on July 28, 1928, in which acknowledgement the then Acting Chief Secretary stated simply that, "A further reply will be sent to you in due course".

No further communication has as yet been received, however, from the Secretariat, and on the morning of October 19th I called personally upon Mr. F. Pudsey, Director of the Department of Public Works of the Government of Palestine, in regard to this matter. Mr. Pudsey informed me that Mr. Palmer of Rendel, Palmer, and Tritton, Westminster, London, the consulting engineers engaged by the Crown Agents, who visited Palestine in March of this year to make a preliminary survey of the Haifa work, submitted plans and specifications to the Crown Agents which were approved by the Colonial Office on July 26, 1928.

The Crown Agents at once notified eleven specially selected English firms, providing them with the approved specifications. These firms forthwith sent representatives to Palestine to look over the field and prepare estimates for the work.

The closing date fixed for the final submission of tenders to the Crown Agents is November 4, 1928, and, as the Department was informed in this office's telegram of October 19, 1928,⁵² three American firms, which to the Consulate's knowledge have expressed an interest in bidding for the work, will have no opportunity to do so unless the closing date can be postponed and bidding opened to them. The firms in question are the Frederick Snare Corporation of 114 Liberty Street; Ulen and Company, 120 Broadway; and Fox Brothers and Company, Incorporated, 32 Rector Street; all of New York City.

As little publicity as possible has been given to this project, at least in Palestine, and it would appear that the Palestine Government has deliberately endeavored to conceal the intention of the British Government to invite only English firms to participate in the bidding for the work until it was too late for other Governments to make any representations.

I told Mr. Pudsey during our interview that this looked very much like a closed proposition, and he smilingly agreed that it was. He also told me that some time ago the Italian Consul General in Jerusalem had inquired of the Secretariat regarding the Haifa harbor works upon behalf of an Italian firm which was interested in bidding for the contract, and that he had been put off by Colonel Symes, Chief Secretary at that time, with an evasive reply some-

⁵² Not printed.

thing to the effect of, to quote Mr. Pudsey's own words, "Oh, don't bother me now about this matter. We will let you know all about it when the time comes".

I have [etc.]

J. THAYER GILMAN

867n.156/10

The Secretary of State to the Ambassador in Great Britain
(Houghton)

No. 1617

WASHINGTON, December 4, 1928.

SIR: There is enclosed a paraphrase of a telegram of October 19,⁵³ and a copy of despatch No. 1872 of October 20, 1928 from the Consulate at Jerusalem concerning the tender of bids for the construction of a proposed harbor works at Haifa, Palestine. As the Embassy is aware, these works are to be financed by the Government of Palestine from funds raised under the Palestine Loan Ordinance.

The enclosed communications indicate that the British Crown Agents in charge of the contract for the construction, apparently sometime in July, 1928, furnished eleven selected British firms with the specifications of the harbor works, and fixed November 4, 1928 as the closing date for the final submission of bids. On July 23, 1928 the Consulate at Jerusalem had requested from the Palestine Government information regarding the contract for the harbor works in order that it might advise interested American concerns, but it was not informed of the action taken by the Crown Agents until October 19, 1928. By that time it was obviously too late for the American firms to carry out the preliminary investigations, prepare estimates, and submit tenders by November 4, the date fixed by the Crown Agents.

The Department is of the opinion that the line of action adopted by the British Authorities in respect to the submission of tenders is in harmony neither with the spirit of the mandate⁵⁴ nor with the provisions of the American-British Palestine Mandate Convention of December 3, 1924.⁵⁵ Article 18 of the Mandate, to the benefits of which the United States is entitled under the terms of its Convention with Great Britain, provides as follows:

"The Mandatory shall see that there is no discrimination in Palestine against the nationals of any State member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise

⁵³ Not printed.

⁵⁴ For revised final draft of the mandate for Palestine, see *Foreign Relations*, 1922, vol. II, p. 292.

⁵⁵ *Ibid.*, 1924, vol. II, p. 212.

of industries or professions, or in the treatment of merchant vessels or civil aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

“Subject as aforesaid and to the other provisions of this mandate the Administration of Palestine may, on the advice of the Mandatory, impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population. It may also, on the advice of the Mandatory, conclude a special customs agreement with any State the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.”

The provisions of this article, especially the term “exercise of industries,” appear to apply to such discrimination as that which has taken place in connection with the submission of tenders for the construction of the harbor works at Haifa. Moreover, this Government on several occasions during the course of the correspondence with the British Government in regard to the Palestine Mandate Convention stated in no uncertain terms its insistence upon the principle of the open door and of equality of commercial opportunity in Palestine and in other mandated territories.

As early as May 12, 1920 the Embassy at London in a communication to the Foreign Office⁵⁶ suggested several propositions which embodied or illustrated the principles which this Government desired to see applied in the mandated regions. Among these propositions were the following:

(1) That the mandatory power strictly adhere and conform to the principles expressed and agreed to during the peace negotiations at Paris, and to the principles embodied in mandate “A” prepared in London for adoption by the League of Nations by the Commission on Mandatories.

(2) That there be guaranteed to the nationals or subjects of all nations treatment equal in law and in fact, to that accorded nationals or subjects of the mandatory power with respect to taxation and other matters affecting residence, business profession, concessions, freedom of transit for persons and goods, freedom of communication, trade, navigation, commerce, industrial property, and other economic rights or commercial activities.

The Foreign Office in reply to this communication stated that it was “in full sympathy” with the “various propositions mentioned.”⁵⁷ Other communications setting forth the viewpoint of this Government in regard to the equality of commercial opportunity in Palestine are to be found in the Department’s confidential publication

⁵⁶ *Ibid.*, 1920, vol. II, p. 651.

⁵⁷ *Ibid.*, pp. 663, 666.

entitled "Mandate for Palestine,"⁵⁸ a copy of which is understood to be available in the Embassy.

In view of the consistent attitude of this Government in regard to the granting of concessions in Palestine the Department is at a loss to understand the action of the British Crown Agents and of the Palestine Government in arranging the submission of tenders for the construction of the harbor works at Haifa so as effectually to exclude the participation of other than British firms. Such action appears clearly to be discriminatory and in violation of the rights of this Government under the American-British Palestine Mandate Convention of December 3, 1924.

The Department therefore desires that you seek an early occasion to bring the foregoing orally to the attention of the Foreign Office. At the time of your interview you may leave with the appropriate officials a memorandum recapitulating the points discussed in this instruction.

You will, of course, furnish the Department with a copy of any memorandum that you may leave at the Foreign Office and inform it promptly of the result of your representations.

I am [etc.]

FRANK B. KELLOGG

867n.156/11

The Consul at Jerusalem (Heizer) to the Secretary of State

No. 1904

JERUSALEM, January 10, 1929.

[Received January 31.]

SIR: I have the honor to refer to a despatch from this office No. 1814 dated July 24, 1928, and also to a despatch No. 1872 dated October 20, 1928, concerning the intention of the Government of Palestine to construct a harbor at Haifa in the near future. Reference was also made to the fact that an attempt had been made to shut out all but British firms in connection with the contract for the construction of the harbor.

Recently there has appeared in the *Palestine Bulletin*, published in Jerusalem, a few lines to the effect that owing to a protest made by the Italian Government against the manner in which the contract was given out, preventing Italian firms from making bids, the commencement of construction work on the harbor had been postponed.

In conversation today with Mr. Giardini, the Italian Consul in charge, I learned that the Italian Government had made a strong protest to the Foreign Office in London against the manner which

⁵⁸ See Department of State, Near Eastern Series No. 1, *Mandate for Palestine* (Washington, Government Printing Office, 1931).

the Government had employed in securing bids for the construction work at Haifa, shutting out effectually any participation by Italian firms.

He stated also that the French Authorities had protested against the construction of a harbor at Haifa, so near the Syrian frontier, which could be used as a naval base. He seems to think, however, that the French opposition to the harbor was made with the idea of having something in hand to trade in case of the projected oil line from Mosul to the Mediterranean. If for instance the British would agree to have the oil line brought to Alexandretta or some Syrian Port instead of to Haifa the French might withdraw their opposition to the so called naval port at Haifa.

Apparently the contract for the construction of a harbor at Haifa has been effectually held up for the present. In case there are any American firms that would like to make a bid for this construction work it might be well for them to take the matter up with the Colonial Office through the proper American Authorities in London.

The following firms seem to have been interested in the proposition and possibly might wish to follow the matter up if advised that there had been a delay in awarding the contract.

Messrs. Frederic Snare Corporation,
114 Liberty Street,
New York City.

Messrs. Ulen and Company,
120 Broadway,
New York City.

Messrs. Fox Brothers and Company Incorporated,
33 Rector Street,
New York City.

I have [etc.]

OSCAR S. HEIZER

867n.156/12

The Ambassador in Great Britain (Houghton) to the Secretary of State

No. 3334

LONDON, January 30, 1929.

[Received February 13.]

SIR: I have the honor to refer to the Department's instruction No. 1617, December 4, 1928 (File No. 867n.156/10), and to state that the construction of the proposed harbor works at Haifa, Palestine, was discussed with the appropriate official of the Foreign Office and a memorandum was left with the officer, a copy of which, in triplicate, is enclosed,⁵⁰ according to the Department's instructions.

⁵⁰ Memorandum not printed.

A note has now been received from the Foreign Office, a copy of which I also have the honor to enclose, setting forth the position of the harbor work at Haifa, and stating that no discrimination will be exercised in the allocation of the local contracts.

I have [etc.]

For the Ambassador:
RAY ATHERTON
Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (Chamberlain)
to the American Ambassador (Houghton)

No. E 505/57/65

LONDON, 29 January, 1929.

YOUR EXCELLENCY: On January 3 Mr. Atherton left in this department a memorandum on the question of the proposed work for the construction of a new harbour at Haifa in Palestine.

2. Enquiries have since then been made as to the position, and I now have the honour to inform Your Excellency that the representations contained in that memorandum are based on a misapprehension. His Majesty's Government in the United Kingdom have no intention, as appears to be assumed in the memorandum, of violating any of their obligations, either under the Palestine Mandate or under the Anglo-United States Palestine Mandate Convention of December 3, 1924.

3. It is true that some months ago it was the intention of the Government of Palestine to invite tenders from selected firms for the construction of the proposed new harbour at Haifa. His Majesty's Government are not prepared to admit that in acquiescing in this procedure they would have been acting in conflict with any of their international obligations. But in fact no invitations to tender were issued as it became apparent, in December last, that factors had arisen which rendered it impracticable to proceed further with the proposed work by the method which had up till then been contemplated, and a definite decision to this effect was taken at the end of December.

4. Apart from certain major factors of uncertainty in connexion with the future of the proposed harbour at Haifa, serious difficulties have arisen in regard to the question of the employment of local labour. There has been a considerable amount of unemployment among Jews, who have settled in Palestine in consequence of the scheme for a National Home for the Jews, and the opportunity which the proposed harbour works will afford of providing work for Jewish labour is one that cannot be neglected. Owing to the different standards of life that prevail among Arabs and Jews respectively, special provisions as to wages etc., will have to be made

if the above object is to be secured, and it would be difficult, if not impossible, to include such provisions in any contract which could be made with a firm contracting for the whole work.

5. Further unexpected difficulties have arisen in connexion with the quarrying of the stone for the proposed new breakwater. The most suitable quarry site capable of supplying stone of satisfactory quality in blocks of sufficient size is found to contain exceptionally important antiquarian remains, and therefore cannot, in view of the Palestine Antiquities Ordinance, be used for the purpose, until its antiquarian value has been more fully investigated. In any case it will be necessary to impose considerable restrictions on quarrying, which it would be difficult to embody in a contract without prejudice to the interests of the Palestine Government.

6. In the circumstances it has been decided that the system of tendering for the construction of the harbour work under a single contract must be abandoned, and that the work must be carried out departmentally, contracts being let out locally for the supply of materials or the execution of sections of the work as circumstances permit. No discrimination will be exercised in the allocation of these local contracts.

I have [etc.]

(For the Secretary of State)

H. J. SEYMOUR

867n.156/15

*Memorandum by the Consul General at Jerusalem (Knabenshue) of a Conversation With the British High Commissioner in Palestine (Chancellor), June 12, 1929*⁶⁰

[Extract]

The decision of the British government to have the new Haifa harbor constructed by the Public Works Department of the Palestine government, instead of by private enterprise, seems to have been brought about primarily by the protests of the other powers. But on the other hand, the reasons given therefor by the British Foreign Office in its note to the Embassy of January 29, 1929,⁶¹ may be accepted, inasmuch as their statements in this connection represent, according to general knowledge, the actual situation here. For instance, it was reported in the local press of June 18th that, in consequence of representations made by the Jewish interests in Palestine, the Government had established the principle that in all of its public works, including the Haifa harbor, Jewish labor would be given 35% of the total of the work. Lastly, it must be admitted

⁶⁰ Transmitted to the Department by the Consul General in his despatch No. 31, June 25; received July 17.

⁶¹ *Supra*.

that the decision of the British government to have the Haifa harbor constructed by the Public Works Department of the Palestine government is quite within their rights in accordance with Article 11 (eleven) of the terms of the mandate, and therefore there would seem to be no basis for making further representations in this matter.

P. KNABENSHUE

NEGOTIATIONS IN REGARD TO THE ADMINISTRATION OF THE TURTLE ISLANDS AND TO THE BOUNDARY BETWEEN THE PHILIPPINE ISLANDS AND BRITISH NORTH BORNEO⁶³

711.4115A/60

*Memorandum of a Conference Held at 10 A. M., July 24, 1929,
Regarding the Turtle Islands Boundary Negotiations*

PRESENT

Major General Frank McIntyre, ⁶³	Sir Esme Howard, British
Mr. J. A. Metzger, ⁶⁴	Ambassador,
Mr. J. K. Caldwell ⁶⁵	Mr. F. W. Fraser, ⁶⁶

Mr. T. A. Shone, First Secretary of the British Embassy.

The British Ambassador read the attached "Memorandum for Negotiations with the United States Government Regarding the Turtle and Mangsi Islands".

As the British Ambassador had sent to London the photostatic copies of the charts which were enclosed with the Department's note to the British Embassy of August 20, 1927,⁶⁷ Mr. Boggs, the Geographer of the Department, undertook to prepare for the British Ambassador by tomorrow morning duplicates of the hydrographic charts from which the photostatic copies had been made.

During the conference General McIntyre received a telephone message from Brigadier General Parker, Chief of the Bureau of Insular Affairs of the War Department, stating that in concurrence with the opinion expressed in the report made by General McIntyre after his visit to the Turtle Islands last October, the Governor General of the Philippine Islands did not consider it advisable to take over the administration of the Turtle Islands at this time. As was pointed out in the memorandum of General McIntyre's conversation with Mr. Johnson on July 16,⁶⁸ General McIntyre had been very much im-

⁶³ Continued from *Foreign Relations*, 1928, vol. II, pp. 985-986.

⁶⁴ Recently Chief of the Bureau of Insular Affairs, War Department.

⁶⁵ Assistant to the Solicitor, Department of State.

⁶⁶ Division of Far Eastern Affairs, Department of State.

⁶⁷ Recently British Government Secretary in North Borneo.

⁶⁸ *Foreign Relations*, 1927, vol. II, p. 779.

⁶⁹ Not printed.

pressed, during his visit in North Borneo, with the difficulties which would confront the Government of the Philippine Islands in administering the Turtle Islands.

Following the receipt of the telephone message from General Parker, General McIntyre handed to the British Ambassador a copy of the attached draft treaty^{68a} which provides for the definitive delimitation of the boundary of the Turtle Islands but (by Article 2) permits of the temporary continuance of their administration by the British North Borneo Company. It was pointed out to the British Ambassador that to take any of the steps advocated in paragraph 9 of his memorandum (namely to cede, sell, or lease the Turtle Islands) would be much more difficult than to make an arrangement such as has been provided for in the draft treaty, which would practically continue in force the present 1907 agreement with reference to administration.⁶⁹

The Ambassador suggested that consideration be given to the possibility of including in the treaty merely the delimitation of the boundary and a provision that the administration of the Islands be arranged for by an exchange of notes.

Mr. Fraser stated that the Mangsi Islands are hardly more than a group of reefs lying to the northwest of the Turtle Islands and that, although they have not been referred to specifically in the correspondence concerning these negotiations, they have been administered by the British North Borneo Company under the 1907 agreement. He suggested that perhaps it might be arranged, either by a provision in the treaty or by an exchange of notes, that the British North Borneo Company continue to administer those islands which it has been administering since 1907 in accordance with the temporary agreement, thus including the Mangsi Islands as well as the Turtle Islands.

Although the British Ambassador admitted the difficulties attending any of the courses suggested in paragraph 9 of his memorandum, he suggested that perhaps the American delegation might wish to refer them to the Secretary, and asked that he be informed of the proposal which the American delegation wished to put forward after further consideration. It was understood that he intended to communicate with his Government upon receiving such a proposal.

Following the departure of the British representatives, the proposals which had been made in paragraph 9 of the British Ambassador's memorandum were discussed. It was the opinion of the American representatives that, on account of the practical difficulties which would be encountered, it would be inadvisable to undertake to arrange for ceding, selling, or leasing the Turtle Islands to the British North

^{68a} Not printed.

⁶⁹ For exchange of notes, dated July 3 and 10, 1907, see *Foreign Relations*, 1907, pt. 1, pp. 547, 548.

Borneo Company, and that the method contemplated in the draft treaty would seem to offer the simplest means of achieving the important objects of the negotiations, namely, the permanent delimitation of the boundary and the temporary administration of the Islands by the British North Borneo Company. General McIntyre stated that he believed that it would be acceptable to the War Department to have the period referred to in Article 2 of the draft treaty increased from six months to one year, thus making the period the same as that specified in the temporary agreement of 1907.

It was arranged that General McIntyre would confer with Brigadier General Parker, Chief of the Bureau of Insular Affairs, and that after the memorandum of today's conference had been given appropriate consideration in this Department, the American representatives should agree concerning the proposal which should be made to the British Ambassador, although it was not thought that any important change would be necessary in the attached draft treaty other than to change the period of six months to one year in Article 2.

There is attached a letter from General McIntyre, dated July 24, 1929, enclosing copies of the telegrams exchanged between the Bureau of Insular Affairs and the Governor General of the Philippine Islands.⁷⁰

J. K. C[ALDWELL]

[Annex]

*British Memorandum for Negotiations With the United States
Government Regarding the Turtle and Mangsi Islands*

[UNDATED.]

1. There is no dispute as to the legal claim of the Philippines to ownership of the islands, arising out of the Madrid Protocol of 1885⁷¹ by Article 3 of which the islands were assigned to Spain, and the Convention of 1900,⁷² supplementary to the Peace Treaty between the United States of America and Spain,⁷³ under which the Spanish claim was relinquished to the United States.

2. Nevertheless, it cannot be reasonably disputed that the islands belong geographically to North Borneo, the Government of which has administered them for so long and which is in a far better position to do so than the Government of the Philippines.

⁷⁰ Letter and enclosures not printed.

⁷¹ Protocol between Great Britain, Germany, and Spain, respecting the sovereignty of Spain over the Sulu Archipelago, etc., signed at Madrid, March 7, 1885; *British and Foreign State Papers*, vol. LXXVI, p. 58.

⁷² Treaty between the United States and Spain for the cession to the United States of any and all islands of the Philippine Archipelago lying outside of the lines described in article III of the treaty of peace of December 10, 1898, signed at Washington, November 7, 1900; *Foreign Relations*, 1900, p. 887.

⁷³ Signed at Paris, December 10, 1898; *ibid.*, 1898, p. 831.

3. Administration of the islands from Manila as compared with Sandakan would, it is feared, give rise to difficulties of the following nature :

(i) *Mutual Police Difficulties.* In a few hours natives or others can reach these Islands from the Mainland of Borneo and vice versa. If extradition follows its normal lengthy channels, an intolerable situation might arise for both Administrations.

(ii) *Customs Difficulties.* The inhabitants of these islands will still have to buy and sell in Sandakan or on the coast of North Borneo; the copra produced from these Turtle Islands could hardly be disposed of in any other way.

(iii) *Medical.* In the case of epidemics or sickness inhabitants of these islands must still rely on North Borneo for assistance.

(iv) *Departmental Administration.* The Judicial, Land and other Departments function easily in these Islands while under the jurisdiction of the North Borneo Government; it is not probable that the corresponding Departments of the Government of the Philippine Islands could function as easily in the Islands so distant.

4. Expense would be entailed in policing such small islands at a distance from the centre of the Philippine Administration and if there were lack of adequate policing the islands might easily become a great cause of friction and even of serious trouble to the Government of North Borneo.

5. The Islands are of little value in themselves. The population of the seven islands in the Turtle Group claimed by the United States Government is approximately 220 persons who are practically all migrants from North Borneo. The annual revenue is small: the direct revenue, derived from the Turtle Egg farm, quit rents, boat licenses and poll tax is estimated at \$3,610 and indirect revenue from export duty on copra at a further \$600.00; total \$4,210. But Taganac, with its lighthouse, constructed by the North Borneo Government, is of importance to Sandakan at whose very gates it lies; the value of the light if erected at any other point in the jurisdiction of North Borneo would be greatly decreased.

6. Sandakan is the natural import and export centre for the Turtle Islands and must continue to be so. To remove the islands from the jurisdiction of the North Borneo Government can scarcely fail to result in hardship on the inhabitants who have always recognised and relied on that Government.

7. The Mangsi Islands are visited by natives from neighbouring islands belonging to North Borneo, to plant, tend and harvest their crops. They do not reside there permanently. If these islands were permitted to remain within the jurisdiction of North Borneo, possible difficulties and hardships to these natives might be avoided without any disadvantage being imposed upon the United States Government or the Government of the Philippine Islands.

8. The United States authorities have in the past stated that North Borneo was the source of opium smuggling into the Philippines. Since 1914, owing to measures taken by the North Borneo Government this illicit traffic has to all intents and purposes ceased. The United States representative at the Eleventh Session of the Advisory Committee of the League of Nations on Traffic in Opium held at Geneva in April, 1928, stated that there had been no evidence of smuggling from North Borneo to the Philippines for the last two years.⁷⁴

Other forms of smuggling are negligible.

In any case, the suppression of smuggling, if that be one of the objects of the United States Government in wishing to take over the administration of the islands, would not be facilitated by administering the islands from Manila, for the only practicable route for smuggling is via intricate inland waters and Tambisan Island.

9. For all these reasons the Government of North Borneo are very anxious to continue to administer the Turtle and Mangsi Islands and they ask whether as a matter of equity the United States Government would not be willing to cede them, or sell them, or let them on a long lease. It is believed that any of these solutions would be acceptable to the North Borneo Company, but details would have to be submitted to them in London in the event of the United States Government agreeing to any such proposal. In this connexion it may not be amiss to recall that Palmas Island, situated about 50 miles south of Mindanao, which had been controlled for many years by the Government of the Netherlands East Indies, although within the geographical limits of the Philippines, was awarded to Holland by the Hague International Court, the United States Government making no objection to its cession.⁷⁵ Much more, then, should the position of the Turtle and Mangsi Islands which are admittedly outside the geographical limits of the Philippine Islands, be generously considered by the United States of America.

711.4115A/60

*Memorandum of a Conference Held at 10 A. M., July 29, 1929,
Regarding the Turtle Islands Boundary Negotiations*

In reply to an inquiry of the British Ambassador concerning the attitude of the Secretary respecting the proposals contained in the

⁷⁴ See League of Nations, Advisory Committee on Traffic in Opium and Other Dangerous Drugs, *Minutes of the Eleventh Session, Held at Geneva From April 12th to 27th, 1928*, C.328.M.88.1928.XI.[O.C.816.] (Geneva, 1928), p. 32.

⁷⁵ See The Hague, Permanent Court of Arbitration, *Arbitral Award Rendered in Conformity With the Special Agreement Concluded on January 23rd, 1925, Between the United States of America and the Netherlands Relating to the Arbitration of Differences Respecting Sovereignty Over the Island of Palmas (or Miangas), April 4th, 1928* ([The Hague, 1928]); see also, *Foreign Relations*, 1925, vol. II, pp. 614 ff.

memorandum left at the Department by the British Ambassador on July 24,⁷⁶ General McIntyre stated that he had discussed the memorandum with the Secretary and that it was the opinion of the Secretary that a method of settlement such as that provided for by the draft treaty handed to the British Ambassador on July 24⁷⁷ would be preferable to any of the methods suggested in the memorandum of the British Ambassador.

The Ambassador called attention to the omission in paragraph 9 of the description of the line in the draft treaty of the words "with the meridian of longitude 100".

The Ambassador inquired whether the contemplated arrangement would provide for the administration of the islands by the British North Borneo Company on a lease and was informed by General McIntyre that it would seem preferable to continue the administration on the basis of an agreement similar to that of 1907.

The Ambassador suggested that the treaty should contain only three articles: First, an article delimiting the boundary; Second, an article incorporating the Washington treaty provision regarding the fortifications (Article 19);⁷⁸ and Third, an article providing for ratification; the remaining provisions regarding the administration, the lighthouse, a police post, et cetera, to be dealt with in a concurrent exchange of notes. The Ambassador said that he had not yet received an instruction from his Government covering this point but that he was confident that the British Government would approve. General McIntyre stated that this question had not been referred to the Secretary, but that it would seem to be a satisfactory procedure and that there was no reason to suppose that there would be any objection to it.

Mr. Shone brought up the question of some forty-one transfers (by sale, perpetual or other long term lease) of a total of some three hundred acres of land in the Turtle Islands which were effected prior to the conclusion of the 1907 agreement. After some discussion it was agreed that since the transfers occurred after the acquisition of the islands by the United States by the 1900 treaty, a clear legal title to these plots of ground could only be created by a provision in the treaty confirming the transfers, but that it would probably be satisfactory to omit from the treaty any mention of these plots and to incorporate in the exchange of notes a statement referring to and continuing the provision of the 1907 agreement stipulating that no alienation of land shall take place, together with a note stating

⁷⁶ *Supra.*

⁷⁷ Draft treaty not printed.

⁷⁸ Treaty between the United States of America, the British Empire, France, Italy, and Japan, signed February 6, 1922; *Foreign Relations, 1922*, vol. 1, pp. 247, 252.

that before the 1907 agreement became effective a certain number of plots of ground amounting to a certain number of acres were alienated by the British North Borneo Company.

The Ambassador asked whether it would not be possible, to provide either in the treaty or in the exchange of notes, for the maintenance of the lighthouse on Taganac Island and a proper police post on the Turtle Islands in the event that the administration should pass out of the hands of the British North Borneo Company, either by the taking over of the administration by the United States Government or by the termination of the ownership of the islands by this Government. It was agreed, after some discussion, that there might be some question concerning the propriety of making definite commitments concerning the manner in which the United States Government proposed to deal with such matters in islands which are admittedly its own, but that there would be no objection to referring to this matter in the exchange of notes, the British note pointing out the importance to it of the continued maintenance of the light and of adequate police control over the islands and the United States Government taking note of the British views concerning this matter.

Mention was made of the suggestions in the memorandum of Mr. Boggs of July 26, 1929,⁷⁹ and it was agreed that in describing the boundary it should be specified that the islands on one side of the line belonged to the United States and on the other side to Great Britain, thus avoiding any possibility of suggestion that the line was intended to fix a boundary between the two countries on the high seas. The suggestion of Mr. Boggs that it be specified that any rocks traversed by the line shall belong to the Philippine archipelago was accepted. It was also agreed that, in conformity with Mr. Boggs' suggestion, provision should be made to insure the line passing between Little Bakungaan and Great Bakungaan Islands, and between the Mangsi Islands and Mangsi Great Reef, irrespective of any alterations in the chart which may be necessitated by subsequent more accurate surveys.

At the suggestion of the British Ambassador, it was arranged that Mr. Shone should prepare a draft of the treaty and of the note which it is proposed to transmit and confer with Mr. Metzger and Mr. Caldwell with a view to putting them in final form. The Ambassador said that he believed that we should be able to complete the drafting in perhaps one more meeting and dispose of the matter by the end of this week, as there are no differences of opinion concerning any matters of importance.

With reference to Mr. Boggs' suggestion that a copy of the chart be attached to the treaty as an integral part thereof, the commission was of the opinion that it would be preferable not to do so, since the chart

⁷⁹ Not printed.

could not be published as a part of the treaty; it was agreed to define the line in the way suggested by Mr. Boggs, making reference to the chart in question, but not actually attaching a copy to the treaty.

J. K. C[ALDWELL]

711.4115A/60

Memorandum of a Conference Held at 4 P. M., July 31, 1929, Regarding the Turtle Islands Boundary Negotiations

PRESENT:

Mr. J. A. Metzger,
Mr. J. K. Caldwell

Mr. T. A. Shone, First Secretary
of the British Embassy,
Mr. F. W. Fraser.

Mr. Shone submitted certain changes which he proposed be made in the American draft treaty, and also submitted a draft of the proposed British note providing for the continued administration of the Turtle and Mangsi Islands by the British North Borneo Company. After some discussion, it was mutually agreed that certain changes be made in the drafts submitted by Mr. Shone and that the treaty and the note in the form finally agreed upon be typed up as soon as possible, in the Department of State, and that copies would be sent to Mr. Shone for submission to the British Ambassador. It was also agreed that copies would be submitted to General McIntyre and to the Secretary and that a final meeting of the British and American representatives should take place on Friday, August 2, at 10:00 o'clock.

Mr. Shone also requested that he be given a copy of pages 4 and 5 of the memorandum of the Geographer of the Department, dated July 26, 1929,⁸⁰ dealing with possible changes which might be necessitated by subsequent more accurate surveys, in order that he may submit this matter to the British Ambassador for consideration of the advisability of incorporating some such provision in the treaty.

Copies of the treaty and of the British note as redrafted on the meeting on July 31 are attached hereto.⁸¹

It was proposed by Mr. Shone that the treaty be completed in final form, so far as the negotiators can do so, at the meeting on Friday morning (tomorrow) August 2nd, after which the British would like to submit the text to the Foreign Office, since there is no urgency about the signing in view of the arrangement that the administration be continued by the British North Borneo Company. Mr. Fraser would return home, and the treaty would be signed later.

J. K. C[ALDWELL]

⁸⁰ Not printed.

⁸¹ Neither printed.

711.4115A/76

*Memorandum of a Conference Held at 10 A. M., August 2, 1929,
Regarding the Turtle Islands Boundary Negotiations*

PRESENT:

Major General Frank McIntyre	Sir Esme Howard, British Am- bassador,
Mr. J. A. Metzger	Mr. T. A. Shone, First Secretary, British Embassy.
Mr. J. K. Caldwell	Mr. F. W. Fraser.

It was agreed to include in the treaty as Article II. the paragraphs in the latter part of the memorandum of the Geographer, dated July 26, 1929,⁸² and to provide that sections of the two charts, described in the treaty, be attached to the treaty as a part thereto.

The texts of the treaty and of the proposed British note were read over and compared and certain minor pencilled changes made in them, after which they were both initialed, in duplicate, by General McIntyre and by the British Ambassador.

One copy of each of the initialed documents is attached hereto.⁸²

It is the intention of the British Ambassador to submit his copies to the British Foreign Office, after which the final copies will be prepared for signature.

J. K. C[ALDWELL]

711.4115A/75

*Memorandum by Mr. John K. Caldwell of the Division of Far Eastern
Affairs*

[WASHINGTON,] August 3, 1929.

In explanation of the changes which have been made in the draft submitted by the American delegation to the British at the second meeting on July 24, it should be explained that it was mutually agreed by the American and British representatives that it would be preferable to deal with matters regarding the administration of the Turtle Islands in a concurrent exchange of notes, adhering to the form and in some sections to the exact phraseology of the notes exchanged in 1907, which provided for the temporary arrangement under which the British North Borneo Company has been administering the Turtle Islands.

Article I remains the same.

Article II of the initialed treaty incorporates two paragraphs drafted by the Geographer of the Department, designed to make certain that, in

⁸² Not printed.

case of a more accurate survey being made, the boundary line would pass between certain of the more important islands.

Article III was also suggested by the Geographer to prevent any question concerning the ownership of any small unnamed islands or rocks across which the line might pass, the stipulation that such islands or rocks should belong to the United States having been made in view of the fact that, with two exceptions, the line has been placed quite outside of the three marine league limit of the 1900 protocol. This section is so worded as to make it clear that the line defined in the treaty is intended to separate bodies of land and not to be considered as an international boundary on the high seas.

Articles I, II, III, IV, V, VI, VII and VIII have been incorporated in the British note, the American agreement to which is to be indicated in a note to be sent in reply.

Article IV of the initialed treaty contains the reference to Article 19 of the Washington Treaty on Limitation of Naval Armament, which was provided for in Article IX of the American draft.

Article V of the initialed treaty is the same as Article X of the American draft.

Notations indicating these changes have been made in blue pencil in the margin of the American draft attached to the memorandum of July 24.

The note to be despatched by the British Ambassador provides that the administration by the British North Borneo Company may be terminated on one year's notice, instead of the six months' notice which was specified in Article II of the American draft. However, this alteration is satisfactory to the War Department and the Government of the Philippine Islands and is similar to the provision of the 1907 agreement.

J. K. C[ALDWELL]

711.4115A/70

The Secretary of State to the British Chargé (Campbell)

WASHINGTON, November 20, 1929.

The Secretary of State presents his compliments to the Chargé d'Affaires ad interim of Great Britain and informs him that the Government of the United States has no objection to amending, in the manner indicated in the Embassy's note No. 609, of November 7, 1929,⁸³ the draft convention and the exchange of notes concerning the boundary and the administration of certain islands off the

⁸³ Not printed.

east coast of British North Borneo, which were initialed by representatives of the American and British Governments on August 2, 1929.

There are enclosed herewith drafts^{83a} of the convention and of the notes to be exchanged concurrently with the signing of the convention which have been amended in ink in accordance with the suggestions contained in the Embassy's note referred to above.

The Secretary of State is prepared to proceed with the signing of the convention and the notes in the amended form.⁸⁴

INQUIRY REGARDING BRITISH POLICY RESPECTING THE HOLDING AND OPERATION BY FOREIGNERS OF PETROLEUM CONCESSIONS IN TERRITORIES SUCH AS BAHREIN

846b.6363/3 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

[Paraphrase]

WASHINGTON, March 28, 1929—6 p. m.

61. The Department of State has been informed that the Gulf Oil Company of Pennsylvania in November 1927 obtained an option contract on a Bahrein Islands petroleum concession from a British company, the Eastern & General Syndicate, Limited, to which the Sheikh of Bahrein had originally granted the concession in December 1925. The Turkish Petroleum Company agreement was signed July 31, 1928, and by its terms, as a member of the American Group, the Gulf Company was barred from operations in Bahrein. The Gulf Company, with the Syndicate's consent, accordingly assigned its option rights on December 21, 1928, to the Standard Oil Company of California, and the latter organized in turn a Canadian subsidiary to hold and to operate the concession.

The Syndicate, under the option contract's terms, was to secure from the British Colonial Office a one-year renewal of the concession which was expiring December 2, 1928. When the Colonial Office was approached in October 1928 by the Syndicate, approval of the renewal was made contingent upon the insertion in the original concession agreement of a clause providing, among other things, that the managing director and a majority of the other directors should be British subjects, that the concessionaire company should be British-registered, and that none of the rights and privileges which the Sheikh had granted in the concession should be controlled directly

^{83a} Not printed.

⁸⁴ Convention and notes signed on January 2, 1930.

or indirectly by foreigners. Such a clause inserted in the concession agreement would exclude effectually from holding or operating the concession a company which was directly or indirectly controlled by Americans.

You are desired by the Department to discuss this case informally at an early date with the appropriate authorities of the British Government. You should point out in your conversation that existing legislation is extremely liberal in the United States and its possessions in regard to operation of petroleum concessions by companies of foreign control; and you should add that the Department of State would be glad to obtain a statement of the British Government's policy respecting the holding and operating by foreigners of petroleum concessions in territories such as Bahrein.

The result of your conversation should be promptly reported by telegraph.

KELLOGG

846b.6363/8 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, May 30, 1929—noon.

[Received May 30—10 a. m.]

135. Department's 61, March 28, 6 p. m. Following Foreign Office note received today:

"I have the honor to inform you that His Majesty's Government are prepared in principle to consent to the participation of United States interests in this concession, subject to their being satisfied as to the conditions on which United States capital will participate, and in particular as to the nationality of the operating company, of its chairman and directors, and of the personnel who will be employed in the Islands. His Majesty's Government would suggest that these conditions should form the subject of direct discussion between representatives of the Eastern and General Syndicate, as being the existing concessionaires, and the Colonial Office.

With regard to the oral request which you made on April 3rd to a member of this Department for a statement of the policy of His Majesty's Government with regard to the holding and operations in territories such as the Bahrein Islands, of petroleum concessions by foreigners, I have the honor to inform you that His Majesty's Government feel bound to reserve to themselves the right to consider on its merits, and in the light of the circumstances obtaining at the time, each proposal for the holding or operation [of] petroleum concessions by foreigners in such territories, and that they therefore

find themselves unable to make any general statement of their policy on this question such as the United States Government desire.”

I understand Major Davis⁸⁵ is on the Continent and shall endeavor to convey substance of this note to him.

ATHERTON

⁸⁵ Harry G. Davis, of the Gulf Oil Co. of Pennsylvania.

GREECE

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

811.512868 Shipping/2

The Greek Minister (Simopoulos) to the Secretary of State

[Translation¹]

WASHINGTON, February 29, 1928.

The Minister of Greece, in presenting his most cordial compliments to His Excellency the Secretary of State, has the honor to inform him that he has been authorized by his Government to set on foot negotiations for the conclusion of an agreement relative to the exemption of nationals of both countries [from the income tax] on the profits derived from maritime enterprises, on the basis of reciprocity.

Greek law contains the following exemptions on this subject:

1. Article 30, paragraph 8 of Law No. 3338 of June 15, 1925:

“The ordinance in paragraph 7 of article 3 of this law has retroactive effect with respect to the income tax of the years 1919–1920 up to 1924–1925, as well as that of excess profits of the year 1915 and the following years, and also with respect to the additional tax on corporations of the year 1921 and the following years.”

2. The ordinance of article 3, paragraph 7 of Law No. 3338 above-mentioned, ends as follows:

“To paragraph 3 of article 18 of Law 1640 concerning the taxation of income there is added as the sixth case the following exemption. Sixth case: ‘In virtue of reciprocity, profits made in Greece by vessels flying a foreign flag.’”

The two ordinances mentioned above guarantee the exemption of shipping concerns in virtue of reciprocity.

The income tax has been in force since 1919–1920, that is to say, since the date for which retroactive effect was stipulated in the law. The tax on excess profits was in force from 1915 until 1923, and the additional tax on corporations from 1921 until 1924.

Since the reciprocity principle on this subject was recognized by the law of the United States, the Minister of Greece takes the liberty of submitting the enclosed draft² for a settlement of this question with

¹ File translation revised.

² Not printed.

a request that His Excellency the Secretary of State will kindly give it favorable attention.

Since the National Navigation Company of Greece has an agency in New York, styled National Steam Navigation Company, Limited, of Greece, at 20 Pearl Street, the Minister of Greece would be infinitely obliged if His Excellency would kindly forward to the proper authorities the needful instructions to suspend any action about the levying of a tax flowing from the above-mentioned obligations during the course of the negotiations bearing on the settlement of this question.

811.512368 Shipping/5

The Secretary of State to the Greek Minister (Simopoulos)

[Extract]

The Secretary of State presents his compliments to the Greek Minister and has the honor to refer to the Minister's note of February 29, 1928, setting forth the provisions of the Greek income tax law exempting from taxation earnings made in Greece by ships flying a foreign flag.

The Secretary of State has the honor to inform the Greek Minister that before it can be determined whether these exemptions are equivalent to the exemptions that may be accorded by the United States under Section 213(b) (8) of the Revenue Acts of 1921 and 1924 it will be necessary for the appropriate authorities of the Government to be informed as to whether:

- (a) during the years 1921-1924, inclusive, taxes have been collected by the Greek Government from the revenues of American citizens not residing in Greece or of corporations organized under the laws of the United States, derived from the operation of ships documented under the laws of the United States;
- (b) the exemption provided in Article 3, Paragraph 7 of the Law, No. 3338 applies to the profits derived by a citizen of the United States not residing in Greece, and to corporations organized under the laws of the United States, or whether in the case of such citizen the exemption only applies if he resides in the United States;
- (c) the exemption applies in cases where citizens of the United States or corporations organized under the laws of the United States maintain agencies, branch offices, or representatives in Greece, in connection with the operation of ships documented under the laws of the United States.

In this connection the Secretary of State has the honor to state that he has been informed by the appropriate authorities of the

Government that if it is eventually determined that the pertinent exemptions in the Greek income tax law are equivalent to the exemption provision of Section 213(b)(8) of the Revenue Acts of 1921 and 1924 it will be unnecessary for the United States to conclude any agreement with Greece relative to the exemption of earnings derived from the operation of ships documented under the laws of the two countries.

With reference to the Minister's request that the collection of income tax on the earnings in the United States of the National Steam Navigation Company, Limited, of Greece, be delayed until the appropriate authorities of the Government have determined whether the exemptions provided for by Greek law are equivalent to those provided for by the income tax legislation of the United States, the Secretary of State has the honor to inform the Greek Minister that there is no provision in the income tax law of the United States or in the regulations issued thereunder which authorizes a collector of internal revenue to refrain from collecting income tax properly due from a taxpayer. The Treasury Department however has informed the Secretary of State that it will suggest to the Collector in New York that he withhold for a reasonable time the collection of income tax in the case of the National Steam Navigation Company, Limited, of Greece, provided such action will not jeopardize the ultimate collection of the tax due. In the meantime if the Greek Minister will supply the additional information needed the appropriate authorities of the Government will be able to arrive at a definite decision with reference to the general question of the exemption of earnings made in the United States by ships flying the Greek flag.

WASHINGTON, April 26, 1928.

811.512368 Shipping/6

The Greek Minister (Simopoulos) to the Secretary of State

No. 422

WASHINGTON, April 2, 1929.

The Minister of Greece presents his compliments to His Excellency the Secretary of State and, referring to the Department's Note of April 26, 1928, No. 811.512368 Shipping/4[5], has the honor to inform that the exemptions of the Greek law are equivalent to the exemptions that may be accorded by the United States under Section 213(B) (8) of the Revenue Acts of 1921 and 1924.

Concerning the Department's inquiry as to whether "A" during the years 1921-1924 inclusive, taxes have been collected by the Greek Government from the revenues of American citizens residing in Greece or of corporations organized under the laws of the United States, derived from the operation of ships documented under the laws of the United States, the Minister of Greece is authorized to

state that for the years 1921-1924 inclusive, no taxes have been collected by the Greek Government from the revenues of American citizens whether residing in Greece or not, or of shipping corporations organized under the laws of the United States for revenues deriving from operation of American ships in Greece.

With regard to question "B" whether the exemption provided in Article 3, Paragraph 7 of the Law No. 3338 applies to the profits derived by citizens of the United States not residing in Greece, and to corporations organized under the laws of the United States or whether in the case of such citizens the exemption only applies if he resides in the United States, the Minister of Greece is authorized to state that the exemption provided in Article 3, Paragraph 7 of the Greek Law No. 3338 is applied on the profits derived by a citizen of the United States whether residing in Greece or not as well as to the shipping companies organized under the American laws.

As to question "C" whether the exemption applies in cases where citizens of the United States or corporations organized under the laws of the United States maintain agencies, branch offices, or representatives in Greece, in connection with the operation of ships documented under the laws of the United States, the Minister of Greece is authorized to state that the exemption is applied generally not only for the American citizens and the American shipping enterprise but on the American ships in Greece.

Accordingly it is determined that the pertinent exemptions in the Greek Income Tax Law are equivalent to the exemption provisions of Section 213 (B) (8) of the Revenue Acts of 1921 and 1924.

The Minister of Greece should be exceedingly obliged if His Excellency the Secretary of State were kind enough to arrive at a definite decision with reference to the general question of exemption of earnings made in the United States by ships flying the Greek flag on the basis of reciprocity and in case that an agreement on this matter would be necessary the Minister of Greece is duly authorized to sign it.

811.512368 Shipping/10

The Secretary of State to the Greek Minister (Simopoulos)

The Secretary of State presents his compliments to the Minister of Greece and has the honor to inform the Minister, with reference to his note No. 422 of April 2, 1929, relative to the provisions of the Greek net income tax law whereby ships flying a foreign flag may be exempted from taxation on the profits made in Greece, that the Secretary of the Treasury has notified the Department of State as follows:

"Inasmuch as Greece has not taxed the income of a citizen of the United States not residing in Greece and of a corporation organized in

the United States derived from the operation of ships flying the American flag from 1921 and does not tax such income under the present law, Greece satisfies the equivalent exemption provisions of section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926 and sections 212 (b) and 231 (b) of the Revenue Act of 1928. It is held, therefore, that the income of a nonresident alien individual and a foreign corporation from sources within the United States which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of Greece is not required to be included in gross income and is exempt from income, excess-profits and war-profits taxes for 1921 and subsequent years. If any tax on such income has been paid it will be refunded upon proper claims therefor being made by taxpayers who are entitled to the exemption, provided the period of limitation for making refunds has not expired.³

WASHINGTON, June 10, 1929.

UNSUCCESSFUL EFFORTS TO SECURE SERVICING BY INTERNATIONAL FINANCIAL COMMISSION OF PROPOSED J. & W. SELIGMAN & CO. LOAN TO GREECE^{2a}

868.51 Public Works/10

The Minister in Greece (Skinner) to the Secretary of State

No. 814

ATHENS, February 8, 1929.

[Received February 23.]

SIR: I have the honor to refer to my telegram of February 7, 1929,³ stating that the International Financial Commission had communicated to the various Governments represented on the Commission the request of the Hellenic Government that the Commission accept the service of the loan contract for \$54,000,000, just concluded between the Hellenic Government and Messrs. J. & W. Seligman of New York.⁴ I am told privately that the delegates are not encouraging their Governments to comply with the request. In extension of this information, I transmit herewith, in translation, copies of the correspondence exchanged between the Hellenic Minister of Finance and the International Financial Commission.³ These letters have been submitted to me in confidence.

It was because of my fear that some such situation as this might present itself that I cabled the Department on January 29th [28th?].³ In existing circumstances, the matter now being before the Governments of France, Great Britain and Italy for decision, I have suggested to the Department that our Ambassadors in the countries

^{2a} For previous correspondence concerning this loan, see *Foreign Relations*, 1928, vol. III, pp. 38-41.

³ Not printed.

⁴ Dated January 25, 1929; not printed.

named be instructed to make it known that the Government of the United States would be glad to have the Commission undertake the service indicated. I can hardly suppose that they would refuse such a request, especially as it would involve the Commission itself in no important additional effort. The funds of the Hellenic Government already pass through the Commission's hands, and the only substantial labor involved in taking over the service of the Seligman loan would be to allocate a due proportion of available receipts for the payment of coupons under an irrevocable authorization from the Hellenic Government.

Inasmuch as the Department may be under the impression that the International Financial Commission sitting in Athens has been set up by banking interests in France, Great Britain and Italy, I may mention that one of the principal characteristics of the Commission in Greece is that it is composed exclusively of delegates of the three Powers, who may be revoked directly by the appointing Powers, which originally included Germany and Russia also.

I have previously suggested that the Department may now wish to give consideration to the appointment of an American delegate to sit upon the Commission, either with powers concurrent with those of other delegates, or with authority only to concern himself with American interests. It must be admitted that our position is not wholly satisfactory when, in order to protect American investors, we find ourselves obliged to invoke the intervention of a Commission created by three foreign Governments, and in which we have no voice whatever. On the going into effect of the Seligman contract, we shall have placed loans in this country amounting to well over \$100,000,000, and, should the Senate pass the pending Greek settlement bill,⁶ the American Government would itself become concerned in these matters in the same manner as our bankers and investors generally. As the labors of the Commission are technical and wholly non-political, it does not occur to me that our membership in this Commission could be attacked as contrary to our traditional attitude respecting European affairs. The cost of maintaining the Commission itself is borne by the Hellenic State. The delegate who might represent the United States could be either a Legation official or a special appointee. In any case, his actual labors would be inconsiderable.

The Department is aware, I think, that our commercial and financial interests in Greece have grown enormously of late, and I hope will continue to expand in a favorable sense.

I have [etc.]

ROBERT P. SKINNER

⁶ See *Foreign Relations*, 1928, vol. III, pp. 1 ff.

868.51 Public Works/12

*Memorandum by the Chief of the Division of Near Eastern
Affairs (Shaw)*

[WASHINGTON,] February 8, 1929.

I called on the Greek Minister, at the Legation, this afternoon and after reading to him Section 3 of the Seligman Loan Contract I told him that I had received, this morning, a call from representatives of Seligman & Company and Robert Monks & Sons. These gentlemen, I explained, had expressed a certain anxiety as to whether the three Governments represented on the International Financial Commission would, in accordance with the wishes of the Greek Government, instruct their delegates on the Commission so as to permit the service of the Seligman loan being assured by the Commission. I told the Minister that I had replied to the representatives of Seligman & Company and Robert Monks & Sons that in the first place I was not by any manner of means convinced that the difficulties which they anticipated would actually be realized and that in any event I presumed that the Greek ministers in London, Paris and Rome would receive appropriate instructions to press for early and favorable action by the Governments to which they were accredited. The Minister entirely shared my views in this respect. He asked me whether I thought it would be a good plan for him to telegraph his Government. I suggested that a telegram might be helpful along these lines: That representatives of Seligman & Company had called at the State Department and the State Department had thereupon informally spoken with the Minister to the general effect that it was presumed that the Greek Government had instructed the Greek ministers at London, Paris and Rome appropriately in connection with the steps being taken to assure the service of the Seligman loan by the International Financial Commission. The Minister said that he would at once send such a telegram.

I told the Minister that it was my understanding that the Greek Government had already made a formal request upon the Financial Commission and that the delegates on the Financial Commission had made some sort of a reply to the Greek Government. As to the nature of this reply I was not clear. I said that I gathered that it was not altogether responsive and I referred to the possibility that the delegates might refer the question to their Governments in none too favorable a light. I said that we had telegraphed Mr. Skinner in an endeavor to obtain information on this point.

G. HOWLAND SHAW

868.51 Public Works/19 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, February 12, 1929—5 p. m.

30. Section 3 of Article 3 of the Contract recently concluded between J. & W. Seligman and Company of New York and the Greek Government for a loan of \$54,000,000 provides that the Greek Government shall take the necessary steps to assure the service of the loan by the International Financial Commission at Athens. A formal request to this end has been addressed by the Greek Government to the Commission and has been referred without recommendation by the British, French and Italian delegates on the Commission to their Governments.

[Paraphrase.] It is feared by Seligman and Company that the British may make difficulties over instructions to their delegate on the Commission in the sense which is desired by the Greek Government. The company is apprehensive particularly regarding the influence in this connection of Hambros Bank. [End paraphrase.]

The Department desires you to approach the Foreign Office informally and, without requesting any action or the expedition of any action by the Government to which you are accredited, to ascertain what is the present status of the consideration of the question of complying with the Greek request.

In connection with your inquiry you should point out that the proceeds of the Seligman loan are to be used in financing certain important reclamation work in Macedonia which will facilitate the work of refugee settlement in which the United States has from the outset shown a particular interest. You may refer in this connection to the fact that the debt settlement with Greece which has just been approved by Congress includes a provision for the advance of some \$12,000,000 to be used exclusively in the work of refugee settlement.

Repeat foregoing to Paris No. 50, Rome No. 9 and Athens No. 9 and telegraph cost of repetition to be charged Seligman.

KELLOGG

868.51 Public Works/22 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, February 14, 1929—11 a. m.

[Received February 14—9:05 a. m.]

16. At an early hour this morning the Chamber voted ratification of Seligman loan contract which now awaits only favorable action of International Financial Commission in order to become operative.

SKINNER

868.51 Public Works/32 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, March 8, 1929—6 p. m.

44. Reference Department's 30, February 12, 5 p. m.; your 32, February 13, 4 p. m., and your despatch No. 3398, February 26.⁸

Assistant Secretary Castle on February 16 discussed orally with the British Commercial Counselor the question of the International Financial Commission servicing the Seligman loan.

You should renew previous inquiries at the British Foreign Office and with British Treasury officials, telegraphing results to the Department. If a suitable opportunity presents itself, you may point out orally that the reasons given for the attitude of the British and French Ministers in Greece are not by any means clear unless it is to be decided not to permit the International Financial Commission henceforth to undertake servicing any new Greek loan of any kind whatever. It is true that the Commission was set up for a special purpose in 1898,⁹ but since then it has assumed the service of 8 or 9 loans which were not contemplated by the original agreement.

KELLOGG

868.51 Public Works/34 : Telegram

*The Ambassador in Great Britain (Houghton) to the Secretary of
State*

[Paraphrase]

LONDON, March 13, 1929—11 a. m.

[Received March 13—8:30 a. m.]

53. Department's 44, March 8, 6 p. m. Yesterday afternoon I discussed with Sir Ronald C. Lindsay¹⁰ of the Foreign Office the question of having the Seligman loan serviced by the International Financial Commission in Greece.

According to Lindsay, the Commission since its inception has assumed service on only three loans which were not contemplated by the original agreement: namely, the 1914 loan (presumably at the termination of the Balkan war) and two recent loans which the

⁸ Latter two not printed.

⁹ See convention between Great Britain, France, Greece, and Russia, to facilitate the conclusion of a loan by the Greek Government, signed at Paris, March 29, 1898, *British and Foreign State Papers*, vol. xc, p. 27.

¹⁰ British Permanent Under Secretary of State for Foreign Affairs.

League of Nations sponsored. These were exceptional cases, in the view of the British Government, while neither the Hambro nor the Seligman loan is considered exceptional.

He is inclined to believe that placing so many loans under the Commission would tend to build up a situation in Greece resembling the Ottoman debt in Turkey and the Egyptian debt. This, he thinks, would be bad for Greek finance, and the loans, as in Turkey and Egypt, would go bad.

However, no decision in the matter has been taken yet by the British Government.

HUGHTON

868.51 Public Works/36 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, March 14, 1929—5 p. m.

[Received March 14—2:25 p. m.]

28. Department's 10, February 12, 6 p. m.¹¹ Upon receipt via London of the Department's 9, February 12, 5 p. m.,¹² I presented the Seligman loan to the Italian Foreign Office on February 15. Today I have been informed orally by an official in the Under Secretary's office that the Italian delegate on the International Financial Commission at Athens opposes servicing the loan by the Commission. It is said that the British and French delegates on the Commission agree with this attitude. The question of servicing the loan is, however, I understand, still under discussion, and I have been assured of information regarding any further development.

FLETCHER

868.51 Public Works/37 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, March 15, 1929—4 p. m.

51. Reference Sir Ronald Lindsay's arguments (see your 53, March 13, 11 a. m.), he should be informed orally by you that they have validity apparently only if the British Government intends to adopt henceforth a policy of refusing its consent to the placing of any

¹¹ Not printed.

¹² See telegram No. 30 to the Ambassador in Great Britain, p. 90.

further loans under the International Financial Commission. He should be the first to understand the situation which would unfortunately arise if one attitude is taken in regard to the Seligman loan and quite a different one respecting some loan in future of another nationality.

It should be pointed out by you to Sir Ronald Lindsay that the principle of extending the International Financial Commission's control has been established not only in regard to the loans mentioned by him but also recently in the case of the Ulen water loan of 1925.¹³

KELLOGG

868.51 Public Works/38

Memorandum by the Chief of the Division of Near Eastern Affairs (Shaw)

[WASHINGTON,] March 16, 1929.

I told the Greek Minister that much to my surprise we had learned from our Embassy at Rome that the Italian delegate on the Financial Commission was opposed to putting the Seligman loan under the Commission. I also told the Minister that the indications which we received from our Embassies at London and Paris as well as Rome were that the three Governments were hesitating to give instructions to their delegates on the International Financial Commission in the sense desired by Seligman & Company. I suggested that the Minister might wish to bring this information to the attention of his Government by telegraph. The Minister agreed to do this. I also told the Minister that our position in this whole matter was about as follows: If the three Governments were going to inaugurate a policy of refusing to permit any more loans of any kind whatsoever to be placed under the Financial Commission there was presumably nothing that we could do about it, but if it were a question of taking one attitude towards a loan of American origin now and quite a different attitude towards some other loan of another nationality in the future we should obviously have something very definite to say on the subject. I suggested that this point of view might usefully be brought to the attention of the Greek Government.

The Greek Minister and myself drew up the text of a telegram for him to send to his Government covering the foregoing.

G. HOWLAND SHAW

¹³ See *Foreign Relations*, 1925, vol. II, pp. 286 ff.

868.51 Public Works/40 : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

[Paraphrase]

WASHINGTON, March 20, 1929—6 p. m.

24. Your 28, March 14, 5 p. m. Minister Skinner has just telegraphed from Athens¹⁴ that the Greek Minister in Italy on February 18 informed his Government that the instructions of the Italian Government to its delegate on the International Financial Commission were in a sense favorable to the Commission's accepting the service of the Seligman loan. Please consult your Greek colleague and inform the Department.

KELLOGG

868.51 Public Works/41 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, March 21, 1929—noon.

[Received March 21—9:05 a. m.]

56. Your 51, March 15, 4 p. m. Discussed proposed Greek loan yesterday with Lindsay at Foreign Office and left with him statement given me by Seligman representative. After studying this document he will discuss matter with me further. He tells me that both Italian and French Governments have refused to consent to acceptance of mandate by Commission although Seligman representative tells me Italian Government has in fact consented.

Repeated to Paris, Rome and Athens.

HOUGHTON

868.51 Public Works/42 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, March 22, 1929—1 p. m.

[Received March 22—10:07 a. m.]

106. Reference London's 56, March 21, noon, to the Department, regarding the Seligman loan.

On March 20 I was told at the French Foreign Office that the Government was still considering the question and no decision had yet been taken (see my 61, February 24 [14], 5 p. m.¹⁵).

Repeated to the Embassy in Great Britain.

HERRICK

¹⁴ Telegram not printed.¹⁵ Not printed.

868.51 Public Works/43 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, March 23, 1929—1 p. m.

[Received 2:40 p. m.]

31. Department's 24, March 20, 6 p. m. Today an official of the Italian Foreign Office told me there have been no developments in the Seligman loan matter since my 28, March 14, 5 p. m., and I was given the impression that Italy is influenced largely in this matter by the views of Great Britain and France, which are said to be opposed to the Greek Government's request about servicing the loan.

From the Greek Legation I learn that at the time the Greek Minister first discussed the Seligman loan at the Italian Foreign Office he was given to understand that it did not perceive any objection to the International Financial Commission servicing the loan, but the competent Italian financial authorities would have to be consulted before a definite view could be expressed on the question. Subsequently the Greek Minister was informed that the authorities mentioned did not oppose the Commission's acceptance of service of the loan.

FLETCHER

868.51 Public Works/44

The Minister in Greece (Skinner) to the Secretary of State

No. 881

ATHENS, March 29, 1929.

[Received April 22.]

SIR: I have the honor to refer to the various telegrams addressed to the Department in regard to the unwillingness of the International Financial Commission sitting in Athens to accept the service of what is known as the Seligman loan of \$54,000,000. All the information available in this country indicates that the commission as now composed proposes to maintain its unfavorable decision on this matter. One or two flimsy pretexts are put forth in justification of this inhospitable attitude. One is that as the Hambro loan of a few months ago was floated independently of the commission, no subsequent loans should be floated through the commission. Another is that it is in the interest of Greece not to place national bonds on any other footing than municipal issues. Still another is that the several countries represented on the commission desire to terminate the commission's life as soon as possible by refusing to take on additional loans.

I had a conversation with Mr. Venizelos¹⁶ on this matter on the 26th instant, during which he expressed himself with some bitterness

¹⁶ E. K. Venizelos, Greek Prime Minister.

respecting the antagonistic attitude of the old allies of Greece, meaning France, Great Britain and Italy, in matters of Greek interest; but thought that following the ultimate official refusal of the commission to deal with the Seligman loan, it might be possible to arrange matters to the satisfaction of the American banking group by passing a law which would require all the excess revenues of Greece turned over by the International Financial Commission to pass through the hands of an official delegate of the American group who, after setting aside sufficient amounts for the satisfaction of the loan, would deposit the balance to the credit of the Greek Government. This is more easily said than done, as I shall explain in Washington when I arrive there at the end of April. At all events, the representatives of the Seligman group now in Athens and their associate, Mr. John Eliasco of the Bank of Athens, perceive objections to this plan, the first of which is that if the history of the most recent Hambro loan in London can be taken as a criterion of what would happen to any similar loan floated outside the International Financial Commission, the market would absorb bonds so issued at somewhere near 5 points under other Greek issues dealt with by the Commission, and these five points obviously would be another unnecessary charge upon the Greek people who are already heavily taxed.

We must find some issue out of the present deadlock. If the Seligman loan falls to the ground due to the unwillingness of the International Financial Commission to deal with it, the Greek Government will be considerably embarrassed, because the British market seems to be unequal to the flotation of another Hellenic loan within the present year. Almost certainly, however, when market conditions in London undergo some change, Hambro's Bank will again come forward and renew the lucrative arrangements which have characterized their issues in the past, and American finance will be excluded from Greece, except as to such participation in Greek loans as London may care to permit. In other words, the centre of Greek financing, instead of being New York will be again London, as it has been during these past forty or fifty years.

I am still hopeful that the intervention of the Department in London may result in acceptance of service of the Seligman loan by the International Financial Commission. We have been informed in Athens that opposition in Rome and Paris is manifested only to be agreeable to British influences which completely dominate the International Financial Commission, and the Financial Commission of the League of Nations as well.

I have heard nothing from the Department as to the possibility of our accepting membership in the International Financial Commission itself. Such membership would be warmly welcomed in Greece, and

it would seem difficult for the nations now represented to oppose our admission. Whether it would suit our policy in financial matters, I do not know. There is precedent, of course, for our intervention in financial questions in the Eastern Hemisphere in the case of Liberia, our government naming the Director General of Customs. Personally, I am more and more inclined to encourage our participation in the work of the International Financial Commission, as I perceive a permanent handicap to our interests in this field without such participation, and can discover no political objections to our membership.

As I shall be in Washington before the Department can possibly deal with the present despatch, an answer in writing to the views here expressed is unnecessary.

I have [etc.]

ROBERT P. SKINNER

868.51 Public Works/46 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, April 4, 1929—7 p. m.

[Received 9 : 45 p. m.]

28. This afternoon, when I called on the Prime Minister to take leave, Mr. Venizelos asked me to cable the Department on his behalf a request that the Department endeavor to overcome the British Government's objections to the Seligman loan's flotation through the International Financial Commission. Mr. Venizelos understands that anything the Department has thus far done has been on behalf of Seligman and Company, and the Prime Minister wishes to make it clear his Government is itself asking our strong support. While it is not impossible to rearrange the loan contract, such action would mean a loss of time and the restatement of terms, while the bonds might themselves have to be sold on a lower level than otherwise to the public, thereby placing an unnecessary financial burden upon the Greek people.

SKINNER

868.51 Public Works/47 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

[Paraphrase]

WASHINGTON, April 11, 1929—7 p. m.

78. Your 56, March 21, noon.

(1) The Greek Prime Minister has expressed to Minister Skinner at Athens his anxiety at the delay of the Government of Great

Britain, France, and Italy in giving their consent to the International Financial Commission's servicing the Seligman loan. Mr. Venizelos states that, although rearranging the Seligman loan contract would not be impossible, such action would involve a loss of time and the restatement of terms, while the bonds might themselves have to be sold at a lower level than otherwise to the public, thus placing upon the Greek people an unnecessary financial burden.

(2) The Greek Minister, acting under instructions, has today brought to the attention of the Department the earnest hope of his Government that the question of the International Financial Commission servicing the Seligman loan may be promptly and favorably solved.

(3) Please keep the Department informed as to developments.

STIMSON

868.51 Public Works/50: Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

[Paraphrase]

LONDON, April 15, 1929—1 p. m.

[Received April 15—10:35 a. m.]

86. Department's 78, April 11, 7 p. m. The British Foreign Office is preparing a draft of a reply to Greece for submission to the French and Italian Governments, whose approval is hoped for, in order that the replies of these three Governments to the Greek Government may be identic.

The British Government's attitude, I gather, has not changed, and servicing by the International Financial Commission of the Seligman loan will be disapproved.

From what I learned this morning at the Foreign Office, I think action can not be expected much within a month's time. The Foreign Office officials in charge of this matter, however, informed me that they would endeavor to expedite the reply.

Repeated to Rome and Paris.

ATHERTON

868.51 Public Works/59

Memorandum by the Secretary of State

[WASHINGTON,] May 9, 1929.

The Greek Minister came to see me about the Seligman loan and refusal of the International Commission to place it under their debt service. He told me of a case where in 1927 a loan was under consideration and had been blocked by the French in Geneva. The mere suggestion that we would have the debt service handled by our Min-

ister served to cause the French to withdraw their opposition at once. He told me that this was most important to Greece because it was necessary to carry out a rehabilitation program. I told him that we were deeply interested in it, both on account of its importance to Greece and its importance to our own nationals. I called in Mr. Castle and asked him to take it up promptly and see whether if this could not be included under the International Commission, if a new service of our own, as suggested by Greece, could not be established which could secure the credit of the bonds.

868.51 Public Works/62 : Telegram

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

[Paraphrase]

WASHINGTON, May 15, 1929—2 p. m.

156. Reference London's 86, April 15, 1 p. m., to the Department.

(1) The Embassy in Great Britain has now reported that the British Foreign Office draft reply to Greece is under study in the French and Italian Foreign Offices.

(2) It is desired that you should inform the French Foreign Office that, acting under instructions, the American Embassy at London informally brought to the British Foreign Office's attention, before the British draft reply was prepared, the point of view of the Department to the effect that opposition to placing the Seligman loan under the International Financial Commission is not by any means clear unless it be decided that the Commission henceforth will not be allowed to undertake the servicing of any new Greek loan of any kind whatever. You should add that it is still the Department's hope that the interested Governments will place the Seligman loan under the Commission or will inform Greece of their unalterable opposition to any further extension of the Commission's activities.

Repeat the above to the Embassy in Italy as Department's 38.

STIMSON

868.51 Public Works/66 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, June 4, 1929—5 p. m.

[Received June 4—2:30 p. m.]

44. The Department's views on the Seligman loan (see your 38, May 15, 2 p. m., via France¹⁷) have been communicated to the Italian

¹⁷ See telegram No. 156 to the Chargé in France, *supra*.

Foreign Office, and I am told that the Italian Government is constrained to approve the draft proposed by the British Government as a reply of the International Financial Commission to Greece and which states, I understand, that the Commission opposes acceptance of service of the Seligman loan for the reason that said Commission is not inclined either to extend its activities or to prolong its existence through undertaking new loans.

FLETCHER

868.51 Public Works/67 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, June 27, 1929—4 p. m.

[Received 4:10 p. m.]

52. My 44, June 4, 5 p. m. An official of the Foreign Office has informed me that the views of the British Government as set forth in the proposed communication to be handed the Greek Government by the International Financial Commission are to be accepted in principle by the French and Italian Governments. I understand, however, that the French Government is seeking an agreement to exclude the Turkish-Greek loan from the application of the provision against the extension of the activities or the prolongation of the life of the Commission. It is also my understanding that the Italian Government will suggest to the British Government that provision be made for the Greek, French and Italian Governments to consider the desirability of extending the activities of the Commission in the event of an extreme emergency which might jeopardize the credit of the Greek Government.

FLETCHER

868.51 Public Works/73 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, July 12, 1929—5 p. m.

[Received July 12—2:05 p. m.]

189. Department's 167, July 8, 4 p. m.¹⁸ The British member of the International Financial Commission is now in London and says the Commission has not at any time shifted its position. I am informed by the Foreign Office of the approval by the French and Italian Gov-

¹⁸ Not printed.

ernments of the British draft reply which disapproved service by the Commission of the Seligman loan. The Foreign Office states that, while the text of this note is ready now for delivery, there may be some delay, since all members of the Commission are now, it is understood, away from Athens.

I understand confidentially that the French and Italian Governments would not accept definitely the British draft reply regarding the Seligman loan question until it was established clearly that the Greek share of the Ottoman debt would be serviced by the Commission.

DAWES

868.51 Public Works/74 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, July 17, 1929—6 p. m.

181. Your 189, July 12, 5 p. m.; also Department's 30, February 12, 5 p. m.; 44, March 8, 6 p. m.; 51, March 15, 4 p. m.; and 78, April 11, 7 p. m.

If you perceive no objection, the Department desires you, on a basis of the above-mentioned telegrams and other data in your files, to seek an early opportunity to discuss informally with the British Secretary of State for Foreign Affairs the question of service by the International Financial Commission of the Seligman loan in order to ascertain whether the recent Government change has resulted, or is likely to result, in any change of attitude respecting this question.

J. & W. Seligman & Co.'s representative, F. D. Stephens, will reach London on August 1.

STIMSON

868.51 Public Works/76 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, July 30, 1929—1 p. m.

[Received July 30—10:12 a. m.]

210. Department's 181, July 17, 6 p. m. I have today been informed by the Foreign Secretary that he cannot see how the attitude of the British Government with reference to the question of International Financial Commission service for the Seligman loan could

be altered from the position taken in the draft note which the British, French, and Italian Governments have already approved. It is my understanding from what the Foreign Secretary said that the draft note disapproves of the acceptance of service by the International Financial Commission for the Seligman loan (see my 189, July 12, 5 p. m.).

In response to my inquiry as to British policy with reference to the servicing of future loans by the International Financial Commission (see Department's 44, March 8, 6 p. m.), the Foreign Secretary said that it would be necessary for him to look into the matter and that he would reply in writing.

DAWES

868.51 Public Works/79 : Telegram

The Acting Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, August 5, 1929—6 p. m.

41. Seligman and Company understand that reply of British, French and Italian Governments concerning International Financial Commission service for Seligman loan has been delivered to Greek Government. If such is the case endeavor to obtain copy of reply and if not too long telegraph translation of text to Department.

COTTON

868.51 Public Works/78 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, August 6, 1929—4 p. m.

[Received August 6—12:32 p. m.]

72. Department's 41, August 5, 6 p. m. Ministry of Foreign Affairs has not yet received note from International Financial Commission and states matter still under negotiations and that a telegram has been sent to Mr. Venizelos now at The Hague urging that he see Mr. Henderson¹⁹ and impress Greek point of view upon him.

SKINNER

868.51 Public Works/86

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 144

LONDON, August 12, 1929.

[Received August 21.]

SIR: I have the honor to refer to my telegram No. 231, August 12, 11 a. m., 1929,²⁰ relating to the proposed Seligman loan to the Greek

¹⁹ Arthur Henderson, British Secretary of State for Foreign Affairs.

²⁰ Not printed.

Government, and to forward herewith a copy, in triplicate, of the Foreign Office note referred to therein.

I am informed by Mr. Stephens, of Messrs. J. & W. Seligman & Co., referred to in the Department's telegraphic instruction No. 181, July 17, 6 p. m., 1929, that Mr. Venizelos is, however, still optimistic in servicing the proposed Seligman loan under the International Financial Commission. Failing this, Mr. Stephens states that it is the intention of the American company to inaugurate an American Commission in Greece to service American loans.

I have [etc.]

(For the Ambassador)

RAY ATHERTON

Counselor of Embassy

[Enclosure]

*The British Permanent Under Secretary of State for Foreign Affairs
(Lindsay) to the American Ambassador (Davies)*

[LONDON,] 8 August, 1929.

MY DEAR AMBASSADOR: Mr. Henderson was very sorry not to be able, before his departure for The Hague, to let you have the statement which he promised you when you came to see him on the 31st ultimo regarding the views of His Majesty's Government as to whether the International Financial Commission at Athens ought to be requested to take control of the loan which the Greek Government proposed to raise through the American firm of Seligman. In his absence will you allow me to explain the position as it is seen by His Majesty's Government?

2. Let me begin by saying that His Majesty's Government regard with satisfaction every successful effort of American financial houses and American enterprises of other kinds to assist Greece in recovering from the effects of the war and solving the great financial and economic difficulties which have been created by the vast transfer of population from Asia Minor to Greece. The participation of United States finance in Greek reconstruction is recognized by His Majesty's Government to be wholly beneficial, and for this reason they do not entertain, and never have entertained, the smallest intention or desire to discriminate against the investment of American capital in Greece. It is not, therefore, believe me, for motives of this kind that they have felt it their duty to instruct the British representative that the International Financial Commission should not concern itself with the proposed Seligman loan.

3. Whatever method is adopted for raising this or any other loan, His Majesty's Government consider that the overriding consideration to be borne in mind must be the effect which would be produced on Greek international credit and on the prudent administration of

Greek Government finances. His Majesty's Government feel that the true financial interests of Greece are that the Greek Government should raise this loan on their own credit and without relying on such guarantee as the administration by the International Financial Commission could afford.

4. I can best explain the reasons which have led His Majesty's Government to this conclusion by reviewing the past history of the International Financial Commission. The International Financial Commission was set up at the end of the last century when, as Your Excellency is no doubt aware, Greek finances were in a difficult condition, in order to secure the services of certain specified loans on which the Greek Government had defaulted. Owing to the continued existence of these difficulties certain further loans were later placed under the control of the Commission, up to within a fairly recent period. Latterly, however, the situation has completely changed. Greek finances have been placed upon a sound footing thanks to the two Greek reconstruction loans sponsored by the League of Nations, and there is no reason to treat the Greek Government as if it were in a state of chronic semi-bankruptcy. Greece's economic development and growing prosperity are now, I hope, assured, and the recent issue of a loan by Messrs. Hambro quite independently of the International Financial Commission seems to show that this is the view held in financial circles.

5. It is generally recognized, and the United States Government will I think share this view, that it is as a general rule desirable that systems of financial control exercised by Governments in foreign countries, perhaps as a legacy of the past, should be limited as far as possible in their operations and should certainly not be extended without very good reason indeed. This principle applied to the operations of the International Financial Commission in Athens. For the Commission now to extend its activities by assuming control of the proposed Seligman loan would, in the opinion of His Majesty's Government, be a retrograde step, and the mere fact of the Commission doing so would be read as a reflection on the intrinsic value of Greek credit. You will, I am sure, agree that this reflection would be unjustified and that it would be wrong to give grounds for the belief that Greece is unable to raise money on her own responsibility.

6. So long as Governments who want to borrow are able to offer, in addition to their own credit, the attraction of a disinterested and honest debt administration such as that of the International Financial Commission, experience shows that this adventitious guarantee promotes a sense of irresponsibility both in lender and borrower, which certainly ought not to be encouraged. On the part of the

borrowing Government more particularly it offers a temptation to extravagance which is bound to be prejudicial to the true economic interests of the State. The Greek Government is as much liable to this temptation as any other Government in the same position, and the existence of this fact is an additional reason for limiting as far as possible the future activities of the International Financial Commission.

7. This brings me to the enquiry made by Your Excellency as to whether the decision in regard to the Seligman loan will apply to any future loans which Greece may desire to raise. As far as His Majesty's Government are concerned the answer to Your Excellency's question is certainly in the affirmative. There is one exception. Part of the old Ottoman Debt falls, under the Treaty of Lausanne,²¹ to be served by Greece, and the origin and nature of the Ottoman Debt, not to mention Article 48 of that treaty, will probably make it necessary that this Greek share should be placed under the control of the International Financial Commission. With this exception, however, upon which it will be unnecessary for me to enlarge, no further loans should, in the view of His Majesty's Government, be entrusted to the Commission.

8. I may add that the French and Italian Governments are in agreement with the views which I have expressed above, and that the reply from the International Financial Commission to the Greek Government has only been delayed during the last few weeks in order that it might be textually agreed to between the Governments concerned, and because their representatives have been on leave of absence from Athens. It ought now to be delivered to the Greek Government before many days have elapsed.

Yours sincerely,

R. C. LINDSAY

868.51 Public Works/90: Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, September 3, 1929—4 p.m.

[Received 6:33 p. m.]

77. My 75, August 31, 6 p.m.²² The following is an English translation of the French text of note which has just been secured from the Foreign Office after repeated urgent requests:

"International Financial Commission, number 1044, Athens, August 28 [, 1929]. The British, French and Italian delegates to the

²¹ See part II, section I, of treaty of peace, signed at Lausanne, July 24, 1923; League of Nations Treaty Series, vol. XXVIII, pp. 12, 37.

²² Not printed.

International Financial Commission have not failed to submit to their respective Governments the letter which the Hellenic Minister of Finance was good enough to address to the President of the Commission on January 30 last, asking that the Commission take part in the service of the loan of 22,000,000 pounds sterling for public works in Greece, including the 4,000,000 pounds sterling already issued by Messrs. Hambro and the \$54,000,000 to be secured by Messrs. J. B. [& W.] Seligman and Company.

The British, French and Italian delegates have now received instructions from their respective Governments to inform the Hellenic Government that the three interested Governments consider that it is inopportune in principle that the International Financial Commission extend its sphere of activity in assuming the responsibility of the service of any new loans in Greece, except in so far as it may eventually be necessary for the Commission to attach [*assume?*] responsibility of the service of the Greek share in the Ottoman debt. It is true that the Commission has been charged with the service of divers loans during the period of monetary instability when it was impossible for Greece to borrow under other conditions, but the three Governments cannot recognize that these cases constitute a tradition according to which all external loans would be submitted to the control of the International Financial Commission. With the amelioration of the credit of Greece since the stabilization of the drachma, it has already been shown that recourse to this procedure is not necessary, through the emission of the recent loan of 4,000,000 pounds sterling by Messrs. Hambro, and they consider that it is as much in the interest of Greece as of the three Governments represented on the International Financial Commission that in the future, barring a radical change of circumstances, the principle should be maintained that the International Financial Commission will not assume the responsibility of the service of any new loans, whether external or internal, with the exception mentioned at the end of the preceding paragraph.

For these reasons the three Governments regret that they cannot agree to instruct their delegates to the International Financial Commission to accept the service of the loan for public works. The same is true as regards the service of the 6 percent obligations of refugees, for which the Hellenic Government had made direct representations to these Governments."

The note is addressed to the Greek Minister of Finance and is signed by the President, acting for the International Financial Commission.

French text follows by pouch.

868.51 Public Works/94

The Chief of the Division of Near Eastern Affairs (Shaw) to Mr. A. I. Henderson of J. & W. Seligman & Co.

WASHINGTON, September 14, 1929.

DEAR HENDERSON: In reply to your letter of September 12th²³ relative to the Department's position with reference to the refusal of International Financial Commission service to the Seligman loan, I may say that at the present time the Department perceives no reason for protesting. This is due primarily to the fact that the Commission's note to the Greek Government contains a statement of general policy on which this Government could base representations under normal conditions against any future loans obtaining safeguards that have been refused in the case of the Seligman loan. I may add that the informal note from the British Foreign Office to Ambassador Dawes,²⁴ a partial copy of which was contained in the telegram enclosed with my letter of August 12,²³ would appear to provide additional sanction for such representations should the need arise.

Sincerely yours,

G. HOWLAND SHAW

868.51 Public Works/95 : Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, September 20, 1929—1 p. m.
[Received September 20—11:25 a. m.]

83. My 77, September 3, 4 p. m. Mr. Michalakopoulos has returned from Geneva. I learned this morning at the Foreign Office that Mr. Michalakopoulos had interviewed Mr. Henderson and had endeavored to convince him that attitude toward Seligman loan, as expressed in note quoted in my telegram 77, should be reconsidered, stressing the fact that the loan was a productive one.

Mr. Henderson promised that upon his return to London he would discuss the matter further with the Greek Minister there.

Press reports that Great Britain will modify its attitude are not confirmed by information possessed by Greek Foreign Office.

ALDRIDGE

²³ Not printed.

²⁴ *Ante*, p. 103.

868.51 Public Works/99

The Chargé in France (Gordon) to the Secretary of State

No. 9875

PARIS, September 28, 1929.

[Received October 9.]

SIR: With reference to the Department's telegraphic instruction No. 156 of May 15, 2 p. m., which concerns the placing of the Seligman loan under the International Financial Commission at Athens, I have the honor to inform you that an *aide-mémoire*, dated September 27, has been received from the Foreign Office in reply to a memorandum which was presented on May 17 by the Embassy in compliance with the Department's above-mentioned instruction.

The Foreign Office states that the Governments represented on the Commission have never had any idea of discriminating to the disadvantage of American finance in the exercise of the rights given to them as members of the International Financial Commission of Athens and that the decisions which they have taken in this capacity were reached after a purely objective study. With regard to the loan of \$54,000,000 concluded with the Seligman Bank, the interested Governments have been guided by the principle by which they refused the cooperation of the Commission in the service of the 6% bonds which Greece is to issue for the refugees.

A copy and translation of the *aide-mémoire* are herewith enclosed.²⁶

I have [etc.]

GEORGE A. GORDON

868.51 Public Works/107

The Minister in Greece (Skinner) to the Secretary of State

No. 1122

ATHENS, October 28, 1929.

[Received November 18.]

SIR: I have the honor to confirm my telegram of today²⁶ to the effect that by mutual consent the loan contract of Messrs. J. & W. Seligman & Company with the Hellenic Government has been cancelled, and to enclose herewith for the strictly confidential information of the Department copies of the letters exchanged.²⁶

The cancellation arose from the fact that, despite the efforts exerted by Mr. Venizelos and by the Department of State at Washington, the International Financial Commission, sitting in Athens, declined to take over the service of the loan in accordance with the terms of the contract. It is possible that Messrs. Seligman & Company would have been willing to accept a modified contract, had it been possible for the Hellenic Government to obtain payment of balances liberated

²⁶ Not printed.

by the International Financial Commission into the hands of a similar American commission, but existing legal arrangements required that such balances should be put into the Bank of Greece and the American bankers were not willing to look to the Bank of Greece for the satisfaction of their requirements.

The Prime Minister is very fortunate in having more abundant tax receipts than he had anticipated, with a consequent balance of funds sufficiently large to go on with the various contracts for public works for some time to come, without having recourse to a public loan. However, as soon as the operations in the Struma Valley have been so advanced that a larger body of men can be employed, a public loan will become inevitable.

I have [etc.]

ROBERT P. SKINNER

REPRESENTATIONS ON BEHALF OF AMERICAN FIRMS INTERESTED
IN RADIO AND TELEPHONE CONCESSIONS IN GREECE

868.75/10

The Minister in Greece (Skinner) to the Secretary of State

No. 800

ATHENS, January 31, 1929.

[Received February 14.]

SIR: I have the honor to report in confirmation and extension of my telegram today ²⁷ on the same subject, that the prospect of securing a concession for Greece in favor of the International Telephone and Telegraph Company ²⁸ is favorable at the present time. Following the receipt of the Department's cabled instruction ²⁷ on the subject, I arranged at once that Mr. Gill, the special representative of the Company, should meet Mr. Venizelos,²⁹ and I also informed various authorized persons of the nature and importance of the Company itself. At the time of Mr. Gill's arrival, the Government was inviting tenders for a poorly conceived system of local telephone exchanges without connection with the outside world, so planned, in fact, that the American concern was not prepared to put in any bid upon the specifications as they then stood. After Mr. Gill had explained to Mr. Venizelos the importance to Greece of securing a comprehensive system which would provide, not only good local service in the various centres of population, but also direct connections with other countries, and furthermore that this could be obtained without cost to the Hellenic Government itself, Mr. Venizelos was greatly impressed and in the end saw to it that the pending invitation to bidders was withdrawn and another substituted.

²⁷ Not printed.

²⁸ The International Telephone and Telegraph Corporation of New York.

²⁹ E. K. Venizelos, Greek Prime Minister.

The various foreign telephone interests now represented in Athens are said to be disheartened by the apparently good position in which the International Telephone and Telegraph Company stands, and will lose no opportunity to recover ground for themselves. For this reason, it is important that Mr. Gill, who left Athens some days ago, return to the city as soon as possible, or if that is out of the question, that another competent technical representative arrive within the next two weeks, as questions are almost certain to arise which can be dealt with satisfactorily only by one entirely familiar with the projects of the Company and with the technical side of modern telephony.

I have [etc.]

ROBERT P. SKINNER

868.76/9 : Telegram

The Secretary of State to the Chargé in Greece (Goold)

WASHINGTON, April 29, 1929—6 p. m.

20. Please inform Minister of Communications as follows:

Durham and Company³⁰ informed by their representative in Athens that technical points in connection with broadcasting station concession are to be reexamined by a commission. Mr. Wilson Durham, President of Durham and Company, is sailing May 3 and should reach Athens about May 14. It is earnestly hoped that no decision regarding concession will be taken until opportunity of being heard by competent Greek authorities has been afforded Mr. Durham. Please convey this hope not only to the Minister of Communications but also to Mr. Venizelos in the latter case putting it in the form of an appropriate personal message from Mr. Skinner.³¹

STIMSON

868.76/10 : Telegram

The Chargé in Greece (Goold) to the Secretary of State

ATHENS, May 2, 1929—5 p. m.

[Received 5:55 p. m.]

34. Your 20, April 29, 6 p. m. I am in receipt of a letter from Mr. Venizelos in reply to mine transmitting greetings of Mr. Skinner. The principal part states that the Minister of Communications informs him that he has already decided to give the concession to Marconi and that he cannot go back on his decision. As the decision must also be approved by a technical commission he adds that it is only in the event that this council has not approved the concession that the matter could be examined again and the proposals of the American concern taken into consideration.

³⁰ Durham and Company, Inc., radio engineers of Philadelphia.

³¹ On leave in Washington.

I learn from Akiloglou, Durham's agent, that on Monday the Minister of Communications referred question to technical board which is expected to hand down decision in a few days. Today, however, fearing a few members adverse to Marconi, Minister ordered case to be presented to technical council of Ministry of Communications at six o'clock this afternoon.

I am sending note to Mr. Venizelos, who left Athens this morning for the five Easter holidays, requesting him to postpone further hearings before either commission until arrival of Mr. Durham. This letter will be handed to Mr. Tsibidaros, chief of the Prime Minister's political bureau, who will be asked to communicate it to Mr. Venizelos.

GOOLD

868.76/11 : Telegram

The Secretary of State to the Chargé in Greece (Goold)

WASHINGTON, May 3, 1929—5 p. m.

21. Your 34, May 2, 5 p. m. Department approves of request made in your letter to Mr. Venizelos and wishes you to continue to accord every appropriate assistance in this matter.

Please keep Department promptly informed of further developments.

STIMSON

868.76/18 : Telegram

The Acting Secretary of State to the Chargé in Greece (Goold)

[Paraphrase]

WASHINGTON, May 6, 1929—6 p. m.

23. The Department understands that a committee elected by the Technical Board of Trade late on May 3 rendered a decision favoring Durham and Company. The decision having been kept confidential, it is said an attempt will be made, by referring the matter to other commissions of the Government, to nullify the effect of the decision.

You should renew at once the representations authorized in the Department's No. 20, April 29, 6 p. m., and should urgently request both the Prime Minister and the Minister of Communications not to render any decision until the competent authorities at Athens have accorded a hearing to Mr. Durham. He sails May 8 on the *Aquitania* with the fullest possible technical data.

CLARK

868.76/15 : Telegram

The Chargé in Greece (Goold) to the Secretary of State

ATHENS, May 15, 1929—6 p. m.

[Received 6:20 p. m.]

36. Your 23, May 6, 6 p. m. On Monday morning, learning that this matter was to come before the technical commission of the Ministry of Communications that morning, I addressed a letter to Mr. Venizelos once again expressing the hope that a final decision would be postponed until Mr. Durham had an opportunity to present his case.

Yesterday I was informed by Durham's agent here that commission had met on Monday and found:

1. That the Durham offer was better financially;
2. That offers were equally good technically but recommended that Marconi offer be accepted because Army and Navy were accustomed to Marconi apparatus.

I called upon Mr. Papadatos, assistant to Mr. Venizelos, who immediately inquired by telephone of Minister of Communications as to status of the case, reporting the latter as saying that the committee had found the Durham offer better financially and the Marconi offer better technically and recommended that the contract be granted to Marconi. I then asked Mr. Papadatos to express to Mr. Venizelos my regret that in spite of my repeated representations the Minister of Communications had not seen fit to postpone consideration of the matter by the committee until the almost imminent arrival of Mr. Marconi [*Durham?*].

This morning I received a letter from the Prime Minister in which he stated that it is difficult for him to occupy himself with such matters; that his intervention may often result in delaying rather than hastening their solution; that in future he would appreciate my applying to the competent departments through the Foreign Office. He added that he had communicated the contents of my letter to the Minister of Communications who will see that I receive the report of the technical committee of the Ministry. The Technical Board of Trade was a private organization the report of which would not be adopted by the Ministry.

I am replying, stating that my letters to him on the subject have been sent by way of carrying out your instructions; that I thoroughly realize how difficult it is for him to intervene in every question that arises and that it is my constant endeavor to trouble him as little as possible. The radio matter was one in which you were most interested in securing a hearing for Mr. Durham, hence your instructions to me to approach him in the case. I then expressed my regret that a decision has apparently been taken without giving

Mr. Durham the opportunity of making technical explanations, notwithstanding the many representations I have made by way of carrying out your instructions.

This morning Durham's agent called and told me that the matter is not closed yet, that it has been put over until Friday.

GOOLD

868.76/15½ : Telegram

The Secretary of State to the Chargé in Greece (Goold)

WASHINGTON, May 16, 1929—6 p. m.

25. Your 36, May 15, 6 p. m. Department approves action taken by you.

Please inform Minister of Communications through Foreign Office that Mr. Durham left Paris for Athens on today's Orient Express.

STIMSON

868.75/14 : Telegram

The Chargé in Greece (Goold) to the Secretary of State

ATHENS, May 25, 1929—1 p. m.

[Received May 25—10:57 a. m.]

39. Your telegram No. 26, May 18, 6 p. m.³² An adjudication for the telephone concession is to be held on June 5th. Minister of Communications has indicated that he would like local agent to make firm³³ offer, although company's ideas have been altogether different from those of government. Local agent has telegraphed to London requesting that authorized agent be sent at once.

GOOLD

868.76/18 : Telegram

The Chargé in Greece (Goold) to the Secretary of State

[Extract]

ATHENS, May 28, 1929—5 p. m.

[Received May 28—3:42 p. m.]

40. My 38, May 21, 1 p. m.³² This morning's papers announcing signature of the contract yesterday, I saw the Minister of Communications who confirmed it. Upon my expressing my regret that Durham had not been given an opportunity to make his explanations before the committee, Minister replied that nothing that Durham could have said could have influenced the result.

³² Not printed.

³³ i. e., the International Telephone and Telegraph Corporation.

I believe that considerations other than technical have been decisive. Mr. Venizelos by the mere expression of his wish could have secured the necessary hearing for Mr. Durham. It may be that he wants to give this contract to a British firm by way of showing that he is not actuated by anti-British sentiment as he has often been lately accused of being.

GOOLD

868.75/15 : Telegram

The Chargé in Greece (Goold) to the Secretary of State

ATHENS, May 28, 1929—6 p. m.
[Received May 28—5:29 p. m.]

41. My 39, May 25, 1 p. m. I believe that radio contract having been given to a British firm the International now stands an extremely good chance of getting the telephone concession. The Minister of Communications is greatly concerned over the possibility that the International will not take part in the adjudication of June 5th. Day before yesterday he issued a statement of the general principles and ideas to govern the telephone concession and is most anxious that the International reply to this statement on or before the date mentioned.

GOOLD

868.75/15 : Telegram

The Secretary of State to the Chargé in Greece (Aldridge)

WASHINGTON, May 31, 1929—2 p. m.

28. Your 41, May 28, 6 p. m. was communicated to International Telephone and Telegraph Corporation. They state that they will not have sufficient time before June 5 to consider latest proposals of Greek Government and hope it will be possible to postpone adjudication until June 19. Gill, now in London, is communicating in this sense with Greek authorities directly. He will proceed Athens as soon as possible but cannot reach there until after June 5.

You may inform the Minister of Communications of the contents of this telegram.

STIMSON

868.76/20: Telegram

The Acting Secretary of State to the Chargé in Greece (Aldridge)

WASHINGTON, June 1, 1929—1 p. m.

29. Your 40, May 28, 5 p. m. Durham and Company states that the granting of the contract to Marconi now being reviewed by State Council upon request of Papanikolaou.

In your discretion you may inform the Minister for Foreign Affairs that by withholding the contract from Parliament pending the decision of the State Council the Government will help to prevent the creation of an unfortunate impression in American business circles which Department apprehends may arise through apparent failure to afford Mr. Durham adequate opportunity to present his case.

CLARK

868.75/18: Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, June 3, 1929—11 p. m.

[Received June 3—10:20 p. m.]

45. Department's 28, May 31, 2 p. m. Minister of Communications duly informed Saturday morning. This morning I called upon the Minister accompanied by Mr. Hilyer.⁸⁵ The Minister categorically stated that the adjudication could not be postponed beyond June 5th claiming that it would be unfair to other companies whose representatives had remained in Athens; that Mr. Gill should have so remained; that Macris⁸⁶ should have submitted modifications of May 23 to Mr. Gill by telegram, and giving other reasons of an unbusinesslike or inconsequential nature.

It is understood that the Government will resign on June 5th following election today of Admiral Coudouriotis as definitive President and that Mr. Christomanos will not remain as Minister of Communications.

In view of this fact, the unreasonable attitude of Mr. Christomanos, and the urgency of the matter, I am communicating directly with Mr. Venizelos and am taking the responsibility of expressing in tactful form the "apprehension" mentioned in Department's 29, June 1, 1 p. m., in connection with radio debacle.

⁸⁵ Representative of the International Telephone and Telegraph Corporation, from Italy.

⁸⁶ Local agent.

[Paraphrase.] May I suggest instructions from the Department for me to communicate to the Prime Minister a personal expression of Mr. Skinner's apprehension in regard to both radio and telephone matters? [End paraphrase.]

Will keep Department informed.

ALDRIDGE

868.75/16 : Telegram

The Secretary of State to the Chargé in Greece (Aldridge)

[Paraphrase]

WASHINGTON, June 4, 1929—7 p. m.

30. Your 45, June 3, 11 p. m.

(1) The action taken by you is approved by the Department, but it does not wish you to communicate with the Greek Prime Minister in the sense of the suggestion in your penultimate paragraph.

(2) The Department is most anxious not to give the impression that it seeks for American firms more than equal opportunity and that it considers the Greek Government's failure to accord Durham a radio contract as creating an obligation of granting a telephone concession to the International Telephone and Telegraph Corporation. Should you have reason to think this impression has been gained by the Greek Government, you may point out, in your discretion, to the appropriate authorities that the corporation's request for delay is a result primarily of the great concern expressed by the Greek Minister of Communications over the possibility of the corporation failing to present its bid. I refer to your 39, May 25, 1 p. m., and 41, May 28, 6 p. m.

STIMSON

868.75/17 : Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, June 4, 1929—8 p. m.

[Received June 4—4 p. m.]

48. My 45, June 3, 11 p. m. Mr. Venizelos has overruled decision of Minister of Communications and has informed me a few minutes ago through his private secretary that telephone adjudication will be postponed until June 19. Mr. Gill will therefore have time to reach Athens.

ALDRIDGE

868.76/22 : Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, June 4, 1929—11 p. m.

[Received June 4—7:55 p. m.]

49. My 46, June 3, midnight.³⁷ Department's "apprehension" mentioned in its 29 of June 1, 1 p. m., communicated directly to Mr. Venizelos this morning in such a way as to strengthen mutually radio and telephone matters.

As regards the telephone concession, the result has been to save this from adjudication tomorrow in spite of determination of Minister of Communications not allow the adjudication to be delayed "one single hour or one single moment".

As regards the radio concession, Mr. Venizelos has just informed me through his private secretary that although he cannot agree to withhold the contract from Parliament he will give the opposition in Parliament every opportunity to express itself and that he will give all due weight to opposition's statements. In view of the fact that Mr. Venizelos has overruled Minister of Communications on telephone concession, in spite of delicate political situation between the two men, I interpret foregoing reply as favorable to case of American radio company.

Mr. Durham has printed a résumé of his case outlining alleged irregularities, discriminations, etc. This pamphlet will by tomorrow be in the hands of practically all Deputies and Senators. Furthermore it is now believed by Mr. Durham that the parliamentary committee which will consider entire case in a few days is so favorably disposed that it may be advisable to press for immediate reversal of Government's award rather than to request delay in Parliament. Matter at present progressing favorably in all respects. Will keep Department informed.

ALDRIDGE

868.75/17 : Telegram

The Secretary of State to the Chargé in Greece (Aldridge)

WASHINGTON, June 5, 1929—6 p. m.

31. Your 48, June 4, 8 p. m., and 49, June 4, 11 p. m. Department is gratified at the results secured by your representations.

STIMSON

³⁷ Not printed.

868.75/19 : Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, June 5, 1929—8 p. m.

[Received June 5—5:58 p. m.]

51. Department's 30, June 4, 7 p. m. Instruction in paragraph (1) noted. I had already considered suggestion withdrawn, in view of my 48, June 4, 8 p. m., and 49, June 4, 11 p. m.

There is no reason to believe that Greek Government has gained impression mentioned in paragraph (2) of Department's telegram.

[Paraphrase.] The concern of the Greek Minister of Communications (mentioned in my 41, May 28, 6 p. m.), I interpret now as only a gesture. [End paraphrase.]

ALDRIDGE

868.76/35 : Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, June 22, 1929—5 p. m.

[Received June 22—3:30 p. m.]

58. It was decided yesterday that Marconi radio award be submitted to Chamber of Deputies with the understanding that if rejected an entirely new adjudication would be held.

[Paraphrase.] Reason for hope had been given Mr. Durham that the Minister of Communications would take steps himself to annul the award to Marconi in favor of the American company. The Prime Minister, however, it appears, made the above indicated decision. This was not unfavorable, since the new Minister of Communications, the parliamentary committee, and the Chamber president were, apparently, all favoring the Durham case.

Last evening, however, so I gather, the British Legation made strong representations to Venizelos and now, from what I learn, prospects are much less encouraging. Having been constantly in communication with the Minister of Communications, I had another interview this morning and summarized the Legation's position, in view of this afternoon's meeting of the parliamentary committee. In my opinion, everything depends now upon the Prime Minister and upon the force of the considerations behind the British representations.

If stronger representations are desired by the Department, they should be made now.

Yesterday morning Mr. Durham left for Paris by way of Venice. [End paraphrase.]

ALDRIDGE

868.76/37 : Telegram

The Secretary of State to the Chargé in Greece (Aldridge)

[Paraphrase]

WASHINGTON, June 24, 1929—1 p. m.

34. Your 58, June 22, 5 p. m. You may in your discretion express in appropriate form to the Greek Prime Minister the earnest hope of your Government that the Chamber will have all the facts placed before it in order that a decision may be taken on the merits of the case.

STIMSON

868.76/38 : Telegram

The Chargé in Greece (Aldridge) to the Secretary of State

ATHENS, June 25, 1929—5 p. m.
[Received June 25—1:45 p. m.]

59. Department's 34, June 24, 1 p. m. This morning I submitted note to Foreign Minister summing up position of Legation. I indicated that so far as I was aware no action had been taken to date to meet extended representations made under Department's instructions. I added that all representations made since the time that unfavorable and unexpected decision was taken by Mr. Christomanos a few hours before Mr. Durham's arrival, were undertaken with a view to avoiding unfortunate impression mentioned in Department's 29, June 1, 1 p. m.

Foreign Minister promised to send copies immediately to Prime Minister and Minister of Communications.

I am holding Department's 34, June 24, 1 p. m., in reserve for the moment.

ALDRIDGE

868.76/43 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, July 6, 1929—11 a. m.
[Received July 6—8:55 a. m.]

65. Parliamentary commission has reported adversely to ratification of radio contract with Marconi. Notwithstanding this action of commission, Government's bill was read first time yesterday in Parliament.

[Paraphrase.] I am requesting delay for the second reading but apprehend the Government's determination to award the radio contract to Marconi. [End paraphrase.]

SKINNER

868.76/46 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, July 16, 1929—5 p. m.

[Received July 16—1:10 p. m.]

67. My 65, July 6, 11 a. m. Chamber adjourned 3 o'clock this morning until October. At the last moment Prime Minister, yielding to pressure from deputies and desiring to terminate session, agreed to withdraw radio contract from agenda. No parliamentary action can now be taken until October 15th.³⁸

SKINNER

868.75/31 : Telegram

The Secretary of State to the Chargé in Greece (Aldridge)

[Paraphrase]

WASHINGTON, September 11, 1929—11 a. m.

45. Your 76, August 31, 6 p. m.³⁹ Since the International Telephone and Telegraph Corporation, largely because the Greek Minister of Communications desired it (as was reported in your 39, May 25, 1 p. m., and 41, May 28, 6 p. m.), went to the trouble and the expense originally of presenting a bid, the Department hopes the Greek Government will afford an opportunity to the corporation to compete for the telephone contract at the present time on a basis of equality with the other interested firms.

The foregoing should be brought by you to the attention of the appropriate authorities.

STIMSON

868.75/45

The Minister in Greece (Skinner) to the Secretary of State

No. 1135

ATHENS, November 2, 1929.

[Received November 21.]

SIR: In my No. 1081 of October 7, 1929,³⁹ I supplied certain particulars with regard to the telephone concession in Greece for which the International Telephone and Telegraph Corporation were active bidders. I have been in close touch with the officers of this corporation, one of whom, Mr. Hilyer, Vice President, is leaving Athens today, and everything has been done that could be done with propriety, to secure the concession for the American concern. I regret, however,

³⁸ The Department's instruction No. 420, August 30, 1930, to the Chargé in Greece enclosed a letter from Durham and Company reporting the success of that company's negotiations in connection with the broadcasting concession in Greece (868.76/70).

³⁹ Not printed.

to be obliged to report that the government has now definitely decided to sign the contract with Siemens and Halske of Berlin. Mr. Venizelos sent his private secretary to see me yesterday, who gave me the following message on this subject:

“Mr. Venizelos would be happy to see Mr. Hilyer in regard to the telephone matter if Mr. Skinner thinks it would serve a useful purpose, but he, himself, is unable to perceive that such a meeting would be of any practical utility, inasmuch as, after carefully examining the history of the telephone concession, he finds that the Greek Government is obliged to admit that under the Pangalos regime the contract had been awarded, this contract subsequently passing to Siemens & Halske by transfer. While the Pangalos regime was a *de facto* regime only, Mr. Venizelos sees no reason to proceed to a new adjudication, and in consequence he is resolved to give the contract to the German firm after obtaining from that firm such modifications as may be looked upon as essential.”

Mr. Hilyer agrees with me that it is best that his company should withdraw entirely from the field and await the conclusion of the negotiations going on with Siemens & Halske.

The Department will recall that some time last year, Mr. Christomanos, the then Minister of Communications, decided that the old Pangalos contract had no legal standing in Greece. This decision resulted in the appearance in this country of representatives of the International Telephone and Telegraph Corporation as bidders for the concession. More careful study of the facts has compelled Mr. Venizelos to reverse the position of the government as respects the validity of the old contract.

It is always possible, of course, that at the last moment the German firm may be unable to satisfy the Greek Government, and will retire voluntarily, but I think that this is hardly to be expected in present circumstances.

I have [etc.]

ROBERT P. SKINNER

RELAXATION WITH REGARD TO AMERICAN CLERGYMEN OF CERTAIN RESTRICTIONS IMPOSED BY THE GREEK GOVERNMENT ON ENTRY OF MINISTERS OF RELIGION

868.11/43

The Minister in Greece (Skinner) to the Secretary of State

No. 1104

ATHENS, October 18, 1929.

[Received November 1.]

SIR: I have the honor to report that a deplorable incident occurred recently, in consequence of which the Rev. Arba John Marsh, a respectable American clergyman, although provided with a passport duly visaed in Europe by a competent Hellenic consular officer, was

held in confinement at the frontier and subjected to considerable loss and inconvenience before his admittance could take place. This incident was due to the fact that according to Greek regulations, clergymen are not permitted to enter the country except when in possession of visas authorized in advance by the central Government. This, obviously, is a measure aimed at a limitation of what is called religious propaganda, and not at a limitation upon the number of tourist visitors. Rev. Marsh was unfortunate in that the consular officer who supplied him with a visa had not obtained the necessary advance authorization from Athens.

I pointed out to the Minister of Foreign Affairs that American clergymen desiring to visit Greece were not of the category which the Government had in mind in issuing the order respecting visas, and I am glad now to state that I have just received a note from Mr. Michalakopoulos setting forth that, in view of my observations, "the Hellenic consular authorities in the United States have been authorized to grant visas to the persons in question (Ministers of religion of American nationality) without the necessity of obtaining permission to do so from Athens, in cases where tourists are under consideration whose sojourn in Greece will not exceed two months; to avoid any possible difficulty such travellers should obtain their Greek visas in the United States, before their departure."

It is advisable that the foregoing arrangement be brought to the attention of clerical applicants for American passports who intend to come to Greece.

I have [etc.]

ROBERT P. SKINNER

GUATEMALA

AGREEMENT BETWEEN THE UNITED STATES AND GUATEMALA TO SUBMIT THE SHUFELDT CLAIM TO ARBITRATION

314.115C43/22 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, May 19, 1928—4 p. m.

44. Department informed that Percy W. Shufeldt of Belize, British Honduras, has a concession which he has been operating for some years for the exploitation of chicle in Guatemala and that bill is now before Guatemalan Congress to cancel the concession. Please investigate and report.

KELLOGG

314.115C43/21 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, May 21, 1928—10 a. m.

[Received 6:20 p. m.]

66. Department's May 19, 4 p. m. The Assembly, May 15th, passed a bill disapproving contract assigned to Shufeldt by Najera and Morales, see despatches 1475 and 1852,¹ and stating that the Executive should take steps to recover possession of the lands.

The President has ten days in which to approve or veto. I have asked whether he will give Shufeldt and his lawyer an opportunity to be heard. He said that he will.

The committee report asserted among other things that the contract should have been let at auction and that the Executive can grant such a contract only for five years.

Details by mail leave tomorrow.

GEISSLER

¹ Neither printed.

314.115C43/26 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, May 28, 1928—2 p. m.

[Received 7:40 p. m.]

73. Referring to the Legation's telegram of May 21, 10 a. m. Shufeldt and Morales called today and asked that on May 30th I accompany Mr. Shufeldt and his lawyer to a hearing before the President in support of their request that he veto. They said that this would be exceedingly helpful.

I told them that the suggested course might be construed before the public as undue pressure and might react unfavorably and that I shall instead request the President this afternoon to receive Shufeldt, his lawyer, and Davidson, May 30th, and that he give full consideration to the arguments they will present in support of their contention that the proposed legislation would be illegal and unjust.

They replied that my point is probably well taken but afterwards Mr. Shufeldt said privately that he feels that my presence on the 30th is important. I told him that I shall request the Department to instruct me concerning the matter as quickly as possible.

An evident purpose is to give the impression that the Legation wants the bill vetoed.

Since the above was coded a letter was received from Mr. Shufeldt saying in part: "My reason for desiring your presence on this occasion is to forestall the possibility of a renewal of demands to which I cannot accede, and out of which grew present effort to confiscate my rights and property."

A translation of the contract published in *Guatemalteco* February 18, 1922,³ will be mailed tomorrow.

GEISSLER

314.115C43/29 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, May 29, 1928—1 p. m.

47. Your 73, May 28, 2 p. m. The Department considers that your decision as reported in the second paragraph is sound. However, if in view of the letter you have received from Mr. Shufeldt you consider that your presence at the conference with the President would be more beneficial than otherwise, the Department sees no objection to your being present. The Department believes you should

³The contract of February 4, 1922, between the Government of Guatemala and Najera and Morales is printed in Department of State, Arbitration Series No. 3: *Shufeldt Claim: Claim of the United States of America on Behalf of P. W. Shufeldt v. the Republic of Guatemala* (Washington, Government Printing Office, 1932), p. 118.

be guided primarily by the effect which your action would have on Government officials and public opinion, of which you are best competent to judge.⁴

KELLOGG

314.115C43/42

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2016

GUATEMALA, July 10, 1928.

[Received July 19.]

SIR: I have the honor to report, that, as a sequel to the conversation covered by despatch 2013 of July 7, 1928,⁵ Minister for Foreign Affairs Salazar, on June 27, suggested, that I act "as a sort of unofficial arbitrator" in the matter of the controversy between the Government of Guatemala and Mr. P. W. Shufeldt, regarding his chicle concession; that I informed him, that I prefer not to act in that capacity; that, on July 6, I expressed to Mr. Salazar, unofficially, the hope that it will be possible to effect an adjustment of that controversy, at an early date, either through direct negotiation or with the aid of somebody chosen by the parties to mediate or arbitrate, and that today I asked him, orally, whether it is true that, as reported, the Government contemplates, without further procedure, to grant licenses to other persons to extract chicle in the territory covered by the Shufeldt concession.

It will be recalled, that, about three weeks ago, Mr. Wilson, representative of Mr. Shufeldt, told me, that he had talked with the Minister of Agriculture about a plan under which Mr. Shufeldt would renounce his contract and all claims upon payment of \$100,000., and that Mr. Wilson said, that he would recommend acceptance, if the Minister makes a definite offer to that effect.

On June 21, Mr. Wilson called at the Legation and requested Secretary of Legation Hawks to inform me, that the Minister of Agriculture had offered \$80,000; that he, Mr. Wilson, had said that he is sure that Mr. Shufeldt would not accept and that the Minister of Agriculture had then suggested that Mr. Wilson try to get the American Minister to persuade Mr. Shufeldt to accept, which Mr. Wilson had declined to do. See enclosure No. 1.⁵

I transmit herewith memorandums of my above-mentioned conversations of June 27 and July 6, with the Minister for Foreign Affairs.⁶ They have both been read by Mr. Wilson.

⁴On June 1, 1928, P. W. Shufeldt, accompanied by David M. Davidson and Fred W. Wilson, was received by President Chacón. The Minister was not present. (314.115C43/38)

⁵Not printed.

⁶Latter not printed.

I have told Mr. Wilson, that I am not inclined to undertake to arbitrate or even to mediate in the matter, without specific instructions from the Department. He says, that he appreciates my disinclination to arbitrate, but would like for me to participate in the negotiations between him and the Minister of Agriculture. I stated in reply, that I feel, that it may prove to be possible to effect a satisfactory arrangement with the Minister of Agriculture without direct participation by the Legation.

This morning Mr. Wilson told me, that he had heard, that the Minister of Agriculture has prepared a set of regulations, to be submitted to a cabinet meeting this afternoon, under which the Government would sell permits for the extraction of chicle in the territory heretofore worked by Mr. Shufeldt. He said, that the Government contemplates granting individual licenses to about 500 chicle gatherers who, it is thought, would then at once proceed to get busy, without recourse to any court procedure to test their right. Mr. Wilson was anxious to have some sort of action taken immediately.

I called on the Minister for Foreign Affairs and asked him, whether that report is true. Mr. Salazar stated, that he had heard, that the Minister of Agriculture is preparing to take some sort of action with reference to that territory, but that he did not know just what is contemplated. I inquired, whether, under the constitution and laws of Guatemala, it would be appropriate for the Executive to grant authorization for the seizing of property which is in the possession of another. Mr. Salazar thought, that it might be said, that, under the contract, Mr. Shufeldt never had possession, but only a right to extract chicle. I replied, that my information is, that, in 1922, the then Minister of Agriculture had held, in writing, that the right of Mr. Shufeldt to extract chicle in that zone is exclusive, and that it seems to me, that it may be asserted by Mr. Shufeldt, that he has possession of all chicle trees in that territory for the purpose of extracting chicle therefrom, and that the action of the Government in licensing other persons to extract chicle from those trees might well be construed as authorization to take those trees from Mr. Shufeldt by force, and that it seems to me, that it might be well, for his office to consider whether such action would be legal and constitutional.

Mr. Salazar said, that he would take the matter up this afternoon with the Minister of Agriculture. He remarked, that he had hoped, that, before other licenses were granted by the Government, a mutually satisfactory agreement would be effected between the Minister of Agriculture and Mr. Shufeldt, but that the latter's representative, Mr. Wilson, is too exacting. I made the observation, that the Minister of Agriculture, Mr. Shufeldt and Mr. Wilson are all

of them good traders, and that therefore it should still be possible for them to come to an agreement.

I reported that conversation, orally, to Mr. Wilson, who expressed himself as being very much pleased with what I had done.

I have [etc.]

ARTHUR H. GEISSLER

[Enclosure]

*Memorandum by the American Minister (Geissler) of a Conversation
With the Guatemalan Minister for Foreign Affairs (Salazar)*

GUATEMALA, June 27, 1928.

The Minister for Foreign Affairs stated to Mr. Geissler, that, at a recent meeting of the Cabinet, some members had indicated, that, rather than for the Government to have controversy with Mr. Shufeldt, in the matter of his concession, they would be disposed to pay him a reasonable sum; that Mr. Wilson, as representative of Mr. Shufeldt, had told the Minister of Agriculture, Mr. Solórzano, that Mr. Shufeldt would accept \$100,000.00; that the same Ministers think that amount too high; that, without conceding that the Government is legally liable for any amount, he would like for Mr. Geissler as a sort of an unofficial arbitrator, to say what, if anything, the Government should, in justice, pay to Mr. Shufeldt, in full satisfaction of all claims he may have.

Mr. Geissler replied, that he appreciates very much the confidence implied in the suggestion of Mr. Salazar, but that, under the circumstances, he prefers not to act in that capacity.

(The original of the foregoing was handed to Minister for Foreign Affairs Salazar, by Mr. Geissler, on June 28, 1928. After reading it, Mr. Salazar pronounced the Memorandum correct.)

314.115C43/45

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2019

GUATEMALA, July 16, 1928.

[Received July 25.]

SIR: I have the honor to transmit a copy of a letter in which Mr. P. W. Shufeldt, under date of July 6⁷ expresses a desire for action on the part of the President of Guatemala in the matter of the Bill passed by the Legislative Assembly, regarding his chicle concession; and also a copy of my answer of July 14,⁸ informing him, that, according to *El Guatemalteco*, the Bill was signed by the President on July 4, and that, on July 10, I had inquired of the Minister for Foreign Affairs whether a rumored plan of the Government to dispossess him through issuing licenses to other parties would be legal

⁷ For text, see *Shufeldt Claim*, p. 272.

⁸ For text, see *ibid.*, p. 273.

and constitutional, and that the Minister, without committing himself to me regarding that point, had remarked that he had hoped that a mutually satisfactory arrangement would be effected between Mr. Shufeldt and the Minister of Agriculture.

It appears, that the Act as signed conforms to the Legislative Bill, as translated on page two of despatch No. 1938 of May 22, 1928,⁹ with the exception of some immaterial variations.

I have [etc.]

ARTHUR H. GEISSLER

314.115C43/52

The Secretary of State to the Minister in Guatemala (Geissler)

No. 1108

WASHINGTON, August 10, 1928.

SIR: The Department acknowledges the receipt of your despatches Nos. 1968, June 4, 1928; 1978, June 12, 1928; 1980, June 12, 1928; 1987, June 19, 1928; 2013, July 7, 1928; 2016, July 10, 1928; 2018, July 14, 1928; 2019, July 16, 1928,¹⁰ all detailing recent developments in the negotiations for a settlement of the Shufeldt Chicle Development Company controversy.

Should you again be requested to take action on Mr. Shufeldt's behalf, you may address an informal communication to the Foreign Office, pointing out that your information indicates that the coming into force of the Legislative Bill dated May 22, 1928, by which the Guatemalan Government disapproves of the contract of February 4, 1922, under which Mr. Shufeldt has been extracting chicle from the public lands, effectively deprives this American citizen of the enjoyment of a valuable property right and therefore entitles him to the prompt payment of just compensation.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

314.115C43/66

The Chargé in Guatemala (Hawks) to the Secretary of State

No. 2083

GUATEMALA, September 4, 1928.

[Received September 12.]

SIR: With reference to previous correspondence, I have the honor to transmit herewith the following documents,¹¹ concerning the case of P. W. Shufeldt:

Copy of Strictly Confidential Memorandum by Mr. Lara, Mr. Shufeldt's lawyer, with translation;
copy of an order of the Court under date of August 30, 1928, with translation;

⁹ Not printed; for text of the act, see *Shufeldt Claim*, pp. 33, 254.

¹⁰ Only despatches No. 2016 and No. 2019 are printed.

¹¹ None printed.

- a copy of a letter from Mr. Shufeldt to the Minister of Agriculture, with translation;
- a copy of a Memorandum from the Minister for Foreign Affairs, with translation.

In reply to my request, Mr. Shufeldt handed me on August 29, a strictly confidential Memorandum signed by his lawyer, Mr. Lara, containing the latter's opinion regarding the court action in the case of Mr. Shufeldt.

The same afternoon, I called on the Minister of Agriculture, Mr. Solórzano, and said that I would like to speak to him entirely informally and unofficially, concerning the Shufeldt contract. In reply to a question, he stated that, before deciding whether or not the Government would be willing to arbitrate the question of how much should be paid Mr. Shufeldt, it was necessary to find out from the Minister of Government and Justice the present status of the court proceedings. I then remarked that Mr. Salazar had withdrawn from the negotiations and asked him whether the Government was willing to negotiate further in the matter. He said that, if Mr. Shufeldt would withdraw his claim of four hundred and ninety thousand odd dollars, and was willing to negotiate either directly or through a third party other than Mr. Wilson, he, Mr. Solórzano, was perfectly willing to ask the President if the latter desired to designate someone to negotiate with Mr. Shufeldt. He reiterated the stand of the Government that it could not admit that Mr. Shufeldt had any rights under his contract and, in reply to a question, stated that, the judicial action taken in the court by the Government Solicitor was merely a matter of form to put into effect the Legislative Decree, disapproving the contract, and that it would not in any way affect the claims of Mr. Shufeldt. Mr. Solórzano said that, in case a sum were agreed upon, it would then be necessary to find some means by which the Government could legally make such a disbursement, as otherwise the Legislature could refuse to approve of it. He added that it might be possible for a prior agreement to be reached as to the sum and then for Mr. Shufeldt to bring a claim for that sum against the Government in the courts, which claim the courts would probably grant.

Mr. Shufeldt called that afternoon and I repeated to him my conversation with Mr. Solórzano. I asked whether he was willing to negotiate with the Government, telling him that I did not think it would be of any use for him to continue with his claim of over \$400,000.00, as both Mr. Salazar and Mr. Solórzano had stated definitely that the Government would not negotiate on that basis. He said he was willing to negotiate, providing the Government would suspend court action during the negotiations. He then asked me if I could

negotiate for him or could get the Government to suspend temporarily the action of the court. I replied that I could not possibly take such action without instructions from the Department. He then said, that he would discuss the matter with Colonel Wilson and tell me his decision the following day.

Mr. Shufeldt called at the Legation on August 30 and said that, after his conversation with Mr. Wilson, he had decided to ask the Department to instruct the Legation to request the Government to suspend the Court proceedings pending negotiations and also to carry on these negotiations with the Government. He asked me, if the Legation would be willing to transmit such a message for him at his expense, since if he transmitted it in the clear, the Government would of course know about it and it might have a result detrimental to his case. I said that I would be willing to send the cable at his expense. (see Legation's cablegram No. 107 of August 30, 4 p. m.)¹²

This afternoon the enclosed Memorandum No. 7530 of September 4, 1928, was received from the Foreign Office,¹² in which the Minister for Foreign Affairs Salazar pointed out that Mr. Shufeldt always has recourse to the courts of Guatemala in this matter. It is of interest to note that Mr. Salazar has never made such a strong statement directly to me, although he has very vaguely hinted on one occasion, that Mr. Shufeldt could go to the Courts if he so desired.

It is my opinion that if Mr. Shufeldt is forced to take this matter to the courts it will be very difficult for him . . . Mr. Lara, who is Mr. Shufeldt's attorney at present, states, according to Mr. Shufeldt, that he will not try this case in court and that, in any event, Mr. Shufeldt would be sure to lose, despite the fact that all the legal rights are on his side. I have been informed by other Americans here that it would be exceedingly difficult for Mr. Shufeldt to obtain the services of a foreigner in Guatemala due to the fact that, if he had any vested interests here, such action on his part would be very likely to prejudice them in the future. . . .

I have [etc.]

STANLEY HAWKS

314.115C43/67 : Telegram

The Secretary of State to the Chargé in Guatemala (Hawks)

WASHINGTON, September 15, 1928—1 p. m.

66. Your despatch 2083, September 4. Department considers you would be justified in making informal but earnest statement to Foreign Office as to advisability of arriving at amicable solution of differences between Government and Shufeldt accompanied by suggestion that in meantime court proceedings be held in abeyance and

¹² Not printed.

pointing out apparent obstacles in way of Shufeldt's obtaining legal counsel to represent him before courts and possibility that alternative to amicable settlement would be vexatious diplomatic claim.

KELLOGG

314.115C43/70

The Chargé in Guatemala (Hawks) to the Secretary of State

No. 2103

GUATEMALA, September 17, 1928.

[Received September 26.]

SIR: Upon receipt of the Department's cablegram No. 66 of September 15, 1 p. m., concerning the case of P. W. Shufeldt, I requested Mr. B. B. Bliss, who has a limited power of attorney from Mr. Shufeldt, to inform the Legation as to the present status of the case both in the Courts and before the Minister of Agriculture. There is enclosed herewith a copy, with translation, of a statement of the situation, as of September 17, 1928, prepared by Mr. Lara, lawyer for Mr. Shufeldt.¹³

After talking over the matter with Mr. Bliss, it was deemed advisable, prior to my taking it up with the Foreign Office, to find out whom, if anyone, would be designated by Mr. Shufeldt to negotiate the matter on his behalf, in the event that he did not care to do so himself. In order to ascertain the above, a telegram was sent to-day to Mr. Shufeldt in Belize. No reply thereto has yet been received.

As reported in the Legation's despatch No. 2083 of September 4, 1928, the Minister of Agriculture stated unofficially to me that he would be willing to ask the President to designate some one to negotiate a settlement of the affair, providing Mr. Shufeldt also was willing to do so. If, and as soon as, Mr. Shufeldt informs the Legation whether he or some third party for him is willing to negotiate with the Government, the Legation will inform the Minister of Agriculture to this effect and will likewise, at the same time, inform the Minister for Foreign Affairs. It will also point out informally to the latter, as instructed by the Department's cablegram, the advisability of arriving at an amicable solution of the differences between the Government and Shufeldt, suggesting that, in the meantime, court proceedings be held in abeyance and referring to the apparent obstacles in the way of Mr. Shufeldt's obtaining legal counsel to represent him before the Courts and to the possibility that the alternative to an amicable settlement would be a vexatious diplomatic claim.

I have [etc.]

STANLEY HAWKS

¹³ Not printed.

314.115C43/80

The Chargé in Guatemala (Hawks) to the Secretary of State

No. 2148

GUATEMALA, October 16, 1928.

[Received October 25.]

SIR: With reference to previous correspondence concerning the case of P. W. Shufeldt, I have the honor to transmit herewith copies¹⁴ of:

Radiogram from Mr. Shufeldt, October 13, 6 p. m.,
 Radiogram to Mr. Shufeldt, October 15, 11 a. m.,
 Letter received from Mr. Shufeldt, October 15, 1928,
 Letter to Mr. Shufeldt, October 15, 1928.

Mr. Lara, lawyer for Mr. Shufeldt emphasized again that he did not believe that any of the courts of this country would render a decision against the Government. He stated that the attitude of the Government was and continued to be that the contract obtained by Mr. Shufeldt from Messrs. Najera and Morales was cancelled and therefore, the former had no rights whatever under it.

If Mr. Shufeldt cannot see his way clear to reopening negotiations with the Government, the attitude of the latter, as expressed in the Memorandum of the Minister for Foreign Affairs, transmitted with the Legation's despatch No. 2083 of September 4, 1928, is that Mr. Shufeldt always has recourse to the courts.

In my opinion, there are three courses open to Mr. Shufeldt; one: withdraw his claim of \$462,067.30, without attempting to exact any impossible conditions from the Government, and reopen negotiations; two: institute a claim in the courts against the Government on the ground that the Legislative Decree cancelling his contract is illegal, and three: file with the Department a diplomatic claim against the Government of Guatemala. I do not know what Mr. Shufeldt should receive, but I am convinced that the Minister for Foreign Affairs, rather than negotiate on the basis of Mr. Shufeldt's claim of four hundred and sixty odd thousand dollars, would allow the matter to develop into a diplomatic claim.

I have [etc.]

STANLEY HAWKS

314.115C43/82

The Secretary of State to the Chargé in Guatemala (Hawks)

No. 1124

WASHINGTON, November 5, 1928.

SIR: The Department has received your despatch No. 2148 of October 16, 1928 from which it appears that no satisfactory adjustment has yet been reached with respect to the difficulties confronting Mr. P. W. Shufeldt in connection with his chicle contract.

¹⁴ None printed.

With respect to the suggestion contained in the last paragraph of the despatch that Mr. Shufeldt might file with the Department a diplomatic claim against the Government of Guatemala, the Department informs you that so far as it is at present advised the conditions under which the Department would be warranted in supporting such a claim have not yet arisen. In this connection reference may be made to the generally accepted principle that a claimant against a foreign government is not ordinarily entitled to call upon his own government for its diplomatic intervention until he shall have exhausted his legal remedies in the courts of the foreign country concerned and have appeared to suffer a denial of justice. In the instant case Mr. Shufeldt apparently has not yet resorted to his legal remedies.

It is thought that if you shall communicate the foregoing information to Mr. Shufeldt or his agent, he might be disposed to negotiate for a settlement of his difficulties on a basis which would offer greater promise of success than that upon which he apparently stands at present.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

314.115C43/87

The Chargé in Guatemala (Hawks) to the Secretary of State

No. 2191

GUATEMALA, November 20, 1928.
[Received December 3.]

SIR: With reference to the Department's instruction No. 1124 of November 5, 1928, concerning the case of P. W. Shufeldt, I have the honor to report that, as suggested by the Department, I informed Mr. Shufeldt that as far as the Department is at present advised, the conditions, under which it would be warranted in supporting a diplomatic claim against the Government of Guatemala in this matter, have not yet arisen. In this connection, I have previously told Mr. Shufeldt on various occasions, when he brought up the subject of a diplomatic claim, that the Department would first have to decide whether or not it would support such a claim and also that, in my opinion, technically speaking up to the present time no denial of justice in his case has taken place.

Mr. Shufeldt has been negotiating with the Undersecretary of Agriculture, Mr. Ramirez, who informed him a few days ago that he had been authorized by the President to pay Mr. Shufeldt one hundred thousand dollars and likewise give him a release from Colonel Victor Morales and Mr. Nájera for any claim in this connection, either past, present or future. This morning Mr. Bliss, on behalf of Mr. Shufeldt gave to Mr. Ramirez a draft of a Memorandum, embodying the terms previously verbally agreed upon and which would be signed by both

parties to settle this case. This Memorandum states that the Government of Guatemala buys from Mr. Shufeldt all of the rights, which the latter had under his contract to extract chicle, and all of the buildings, roads and other improvements made by him in his zone. For this, the Government agrees to pay one hundred thousand dollars, fifty thousand dollars of which is to be paid in cash and the remaining fifty thousand dollars in four equal installments at thirty days, sixty days, ninety days and one hundred twenty days. The Government will also give Mr. Shufeldt the abovementioned release from Messrs. Morales and Nájera. Mr. Ramirez saw the President this morning and was told that this draft was agreeable to the Government. It is planned to submit this matter to the Cabinet this afternoon for its final approval, which, if given, will, it is hoped, result in the signing of the agreement sometime tomorrow.

The Undersecretary for Foreign Affairs, Mr. Aguilar, informed me this afternoon that, a few days ago, there had been a meeting in the Foreign Office of the legal members of the Cabinet. According to Mr. Aguilar, Dr. Salazar stated, at this meeting, that he felt that Mr. Shufeldt had a claim against the Government of Guatemala and that this matter should be settled. The rest of those present finally agreed with this attitude.

I have [etc.]

STANLEY HAWKS

314.115C43/90

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2202

GUATEMALA, December 4, 1928.

[Received December 12.]

SIR: Referring to Despatch No. 2196¹⁵ and previous correspondence regarding the matter of P. W. Shufeldt, I have the honor to transmit herewith a copy and translation of a memorandum presented to his representative, Mr. David M. Davidson, by the Ministers of Agriculture and of Finance, on November 30,¹⁶ from which it will be seen that the Government now proposes to pay him, for claims arising in connection with his chicle concession, the sum of \$100,000, of which sum \$10,000 is to be paid at once, \$15,000 in one year, and installments of \$25,000 each in two, three and four years, the deferred payments to be evidenced by negotiable documents.

Before that proposal was made to Mr. Davidson, I had had unofficial talks about the matter with President Chacón and also with Minister of Finance Solares and Minister of Agriculture Solorzano. They said, that the Government is thoroughly disposed to make an amicable settlement of Mr. Shufeldt's claims; but with regard

¹⁵ Dated November 24, 1928; not printed.

¹⁶ Not printed.

to his desire that the \$100,000 be paid within four months from December 1, 1928, they stated, that no appropriations are available for that purpose, and that the proposed payment is the equivalent of what Mr. Shufeldt has told Mr. Solorzano would be the profits, accruing successively during the next four years, if Mr. Shufeldt had been permitted to continue operation, and that he should be willing to let the payments from the Government be similarly extended. Mr. Solorzano says, that Mr. Fred W. Wilson, representative of Mr. Shufeldt, proposed to him some months ago, that the Government pay \$100,000, in four annual installments.

As regards the alternative desire of Mr. Shufeldt to have arbitration under the terms of his contract, Messrs. Solares and Solorzano said, that the Government takes the position that the contract is illegal and that, so long as the courts have not held the contract to be legal, Mr. Shufeldt is not entitled to demand arbitration under it.

With reference to Mr. Shufeldt's contention, reported in Despatch No. 2196, that Mr. Arturo Ramírez, Subsecretary of Agriculture, had, on behalf of the Government, offered to pay \$100,000 within four months, Minister of Agriculture Solorzano said, that Mr. Ramírez had negotiated subject to approval of such tentative agreement as he might make by the President and the Cabinet, and that Mr. Ramírez had subsequently told Mr. Shufeldt in his presence that such had been the limitation on his authority. Mr. Solorzano added, that, although the President and the Cabinet are disposed to pay \$100,000, they rejected the proposal that the payment be made within four months.

Mr. Davidson has told me, that the Minister of Agriculture had said to him, on December 1, that the Government is willing to accept in substance the terms of the agreement proposed by Mr. Shufeldt (see enclosure No. 2 with Despatch No. 2196)¹⁷ if the same is amended as regards the terms of payment along the lines indicated by the abovementioned memorandum of November 30.

On December 1, Mr. Davidson sent Mr. Shufeldt information of the Government's offer, adding that he will endeavor to ascertain for how much the negotiable documents could be sold. On December 3, Mr. Davidson said to Mr. Hawks, that he had inquired at various banks, in the city of Guatemala, whether they would discount that paper and that each of them had replied that it did not care to take the paper. Possibly the banks took into consideration the fact, that there appears to be much doubt as to whether the paper would be a binding obligation on the Government before it

¹⁷ According to the agreement set forth in the enclosure under reference, Shufeldt was to sell for \$100,000; \$50,000 in cash and the remaining \$50,000 in four drafts of 30, 60, 90, and 120 days sight.

is approved by the Legislative Assembly, which body does not meet in regular session until March 1.

Since many members of the Assembly are opposed to paying Mr. Shufeldt anything, there would probably be an advantage in having the proposed agreement, if it has to go before that body, signed at an early date, so as to afford ample time for making sentiment in its favor.

I have [etc.]

ARTHUR H. GEISSLER

314.115C43/91

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2223

GUATEMALA, December 31, 1928.

[Received January 9, 1929.]

SIR: Referring to Despatch No. 2202 dated December 4, 1928, and previous correspondence, I have the honor to report, that, on December 31, 1928, Mr. David M. Davidson showed me a letter, a copy of which is enclosed herewith,¹⁸ and in which Mr. P. W. Shufeldt says, regarding the claim resulting from his chicle contract, that he desires Mr. Davidson to inform the American Legation and the Government of Guatemala that he does not accept the proposal made by Minister of Agriculture Solórzano and Minister of Finance Solares, on November 30, 1928, and that in so far as he is concerned negotiations are closed.

It will be observed, that, as regards possible further procedure, Mr. Shufeldt states:

"The Government of Guatemala were informed by me that Colonel Wilson had withdrawn from my case so long as negotiations for an amicable settlement were being conducted; as these have come to a close I hope to induce him to continue to conduct our case before whichever other tribunal it may be brought for final settlement so that you may consult him on any matters in that connection."

Mr. Davidson did not indicate what the next step in behalf of Mr. Shufeldt's claim will be.

I have [etc.]

ARTHUR H. GEISSLER

314.115C43/103: Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

[Paraphrase]

WASHINGTON, May 9, 1929—3 p. m.

22. Voluminous evidence has been submitted by P. W. Shufeldt in support of request that Department of State espouse his claim

¹⁸ Not printed.

against Government of Guatemala on account of attempted cancellation of contract.

The Department is studying the case and, as at present advised, considers it probable that it will be under duty of presenting claim.

You may bring the foregoing to the attention of the appropriate authorities since, confidentially, this is considered advisable in view of the apparent intention of the Government of Guatemala to grant promptly to another person contract covering Shufeldt's territory.

STIMSON

314.115C43/121 : Telegram

The Acting Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, June 14, 1929—6 p. m.

30. Department's telegram No. 22, May 9. Evidence submitted by Shufeldt's attorneys having been examined, Department is convinced that this Government would be warranted in presenting a diplomatic claim against Government of Guatemala for the full amount of damages suffered by Shufeldt as the result of the cancellation of his contract. However, before taking this step, Department desires to give the Guatemalan Government an opportunity to make a settlement with Shufeldt.

You will so advise the appropriate Guatemalan authorities and taking with you Mr. Davidson, the power of attorney of Mr. Shufeldt, you will express to those authorities the earnest hope of this Government that they will negotiate a settlement of these difficulties in accordance with the principles expressed in the last paragraph of the memorandum of July 20, 1928, initialed by the American Minister and by the Minister of Foreign Relations of Guatemala.¹⁹ Cable results.

CLARK

314.115C43/125 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, June 20, 1929—11 a. m.

[Received 3:35 p. m.]

78. Accompanied by Davidson I communicated today to Minister for Foreign Affairs Aguirre the contents of the Department's tele-

¹⁹The last paragraph reads, in part, as follows: "as regards the controversy between Mr. Shufeldt and the Government [Mr. Geissler] hopes, as he has heretofore indicated, that it may be found practicable for the parties at an early date to effect a just and mutually satisfactory understanding regarding the rights of Mr. Shufeldt under his contract or to agree on a method which would result in a determination of those rights at a minimum of expense and trouble to both of them. Mr. Salazar stated, that he is heartily in accord with those ideas." The memorandum, uninitialed, is printed in *Shufeldt Claim*, 507.

gram number 30, June 14, 6 p. m. He said that he knows nothing about the matter, that however he will study it today, consult the President and Cabinet tomorrow, and inform me immediately of the instructions he will receive.

GEISSLER

314.115C43/134

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2483

GUATEMALA, June 29, 1929.

[Received July 10.]

SIR: I have the honor to report that when, in compliance with the Department's cablegraphic instructions of June 14, 6 p. m. and June 19, 4 p. m.,²⁰ I informed Minister for Foreign Affairs Eduardo Aguirre-Velásquez, on June 20, that the Department is convinced that the Government of the United States would be warranted in presenting a diplomatic claim against the Government of Guatemala for the damages suffered by Mr. Shufeldt as the result of the cancellation of his contract, but hopes that the parties will negotiate a settlement, Dr. Aguirre-Velásquez requested me to give him a Memorandum, which I did, and a copy thereof is transmitted herewith.

I respectfully beg leave to add, that, on June 29, the Minister for Foreign Affairs told me, that he, together with Minister of Agriculture Manuel Herrera, will be pleased to receive Mr. Davidson, representative of Mr. Shufeldt, on July 1, for the purpose of discussing with him a compromise of the dispute. Dr. Aguirre-Velásquez said that it is to be understood, that, unless an agreement be reached, the Government will continue to take the position that it does not owe Mr. Shufeldt anything, and that on the other hand the latter will be free to claim any amount he chooses, notwithstanding any compromise offer which may have been made.

The Minister for Foreign Affairs told me furthermore, that he does not believe that the Government's budget would permit it to pay any amount such as those which have been under discussion, unless the payments were made in installments extending over a term of two years. It will be recalled, that, in November 1928, the then Minister of Agriculture and the then Minister of Finance suggested four years. See despatches 2196 of November 24, 1928²¹ and 2202 of December 4, 1928.

I have [etc.]

ARTHUR H. GEISSLER

²⁰ Latter not printed.

²¹ Not printed.

[Enclosure]

*Memorandum by the American Minister (Geissler) for the
Guatemalan Foreign Office*

On June 20, 1929, the American Minister, accompanied by Mr. David M. Davidson, authorized Attorney-in-fact of Mr. Percy W. Shufeldt, called on His Excellency Minister for Foreign Affairs Aguirre-Velásquez, and stated that he had been instructed by the Department of State to say, that, the evidence submitted by Mr. Shufeldt's attorneys having been examined, the Department is convinced that the Government of the United States would be warranted in presenting a Diplomatic Claim against the Government of Guatemala for the full amount of damages suffered by Mr. Shufeldt as the result of the cancellation of his contract covering certain rights in the Department of El Petén, but that before taking that step the Department desires to give the Guatemalan Government an opportunity to make a settlement with Mr. Shufeldt.

Mr. Geissler added, that the Government of the United States entertains the earnest hope that the Government of Guatemala will negotiate a settlement of the difficulties, in accordance with the principles expressed in the last paragraph of the Memorandum of July 20, 1928, initialed by His Excellency Mr. Salazar, at the time Minister for Foreign Affairs and by the American Minister.²²

GUATEMALA, June 20, 1929.

314.115C43/130 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 1, 1929—6 p. m.

[Received 11:45 p. m.]

85. Referring to the Department's telegram of June 19, 4 p. m.²³ The following is for Mr. Shufeldt:

"At the request of the Minister for Foreign Affairs I conferred today with him and the Minister of Agriculture. They asked what proposal of settlement I wished to submit on your behalf. I replied that some time ago I requested instructions, but not having received them I cannot submit a proposal. They made no offer. The Minister for Foreign Affairs in view of my having no proposal to make asked whether I would make a suggestion as to what should be done. I replied that in the absence of instructions I have nothing to suggest. He requested that I report the conversation to the American Minister. Signed Davidson."

GEISSLER

²² See footnote 19, p. 137.

²³ Not printed.

314.115C43/131 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, July 3, 1929—11 a. m.

36. Your telegram No. 85, July 1. Shufeldt advises Department he is prepared to submit documentary evidence in support of claim totaling \$500,000, but in order to obtain prompt settlement and avoid further losses will consider smaller amount provided payment is in cash. So inform Foreign Minister whether or not Davidson has left. If Davidson has not left inform him confidentially these instructions and advise him that if Government of Guatemala is prepared to enter negotiations on basis of prompt cash settlement he may close with them for a minimum of \$150,000.

Telegraph results.

STIMSON

314.115C43/133 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 6, 1929—8 p. m.

[Received July 7—2:05 a. m.]

87. Davidson left July 3, noon. On the 4th in person and by memorandum I informed the Minister for Foreign Affairs as instructed by the Department's telegram of July 3, 11 a. m. He said that he would have to consult the Cabinet.

This evening I received a four-page memorandum²⁴ in which the Minister for Foreign Affairs acknowledges mine of June 20, makes no mention of mine of July 4, states that with the desire of attending in the best manner the suggestion made by me by instruction of the Department, he and the Minister of Agriculture received Mr. Davidson who said that lacking instructions he could make no suggestion.

The Minister then said that the good disposition of the Government to attend the suggestion of the Department of State cannot be considered a renunciation of the Government's defense and rights. He alleges that under article 54, paragraph 13, of the Constitution then in force, the contract was subject to legislative approval; that it required the formation of a Guatemalan company; that Shufeldt's representation before the Government and the Assembly have been in the name of and in representation of the Guatemalan company; that for five years neither Shufeldt nor the Guatemalan company took steps to secure legalization by the Assembly; and that last year the Assembly took cognizance of the contract and disapproved it, that being the proceeding in determination of steps taken by Shufeldt and Company.

²⁴ See memorandum by the Minister for Foreign Affairs, July 6, 1929, *Shufeldt Claim*, p. 343.

He concludes by stating that Shufeldt has previously been informed when acting in representation of Shufeldt and Company that he will receive due attention provided that he adjusts his procedure to constitutional precepts.

Full text by mail.

In conversation, the Minister has contended that Shufeldt's remedy is to apply to the courts for redress or to present a claim for damages to the Assembly.

GEISSLER

314.115C43/135 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, July 10, 1929—3 p. m.

37. Your No. 87, July 6. Department unable to understand the reply of the Guatemalan Foreign Minister in view of the fact that responsible Guatemalan officials have previously expressed willingness to settle the Shufeldt claim and last year agreed to pay Shufeldt a definite amount, although the terms for the payment proposed by the Guatemalan Government could not be agreed to by Shufeldt. (See Memorandum initialed by yourself and Mr. Salazar accompanying your Despatch 2029, July 25, 1928,²⁵ memorandum accompanying your Despatch 2196, November 24, 1928; ²⁵ Mr. Hawks' Despatch 2191, December 7 [*November 20*], 1928, concerning statement made to Mr. Hawks by Mr. Aguilar and your Despatch 2202, December 4, 1928.)

The Department considers that the Guatemalan Government has committed itself definitely to make a settlement with Shufeldt and that it may therefore expect a settlement to be made, and hopes that the Guatemalan Government will now state definitely the terms of settlement it is prepared to make. So inform Foreign Minister and telegraph substance of reply.

STIMSON

314.115C43/136 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 12, 1929—5 p. m.

[Received 9:02 p. m.]

91. Referring to Department's telegram of July 10, 3 p. m. The Minister for Foreign Affairs has told me that he will study my memorandum of today ²⁶ regarding Shufeldt and submit the matter to the Cabinet on the 16th.

GEISSLER

²⁵ Not printed.

²⁶ See *Shufeldt Claim*, p. 324.

314.115C43/140 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 19, 1929—10 a. m.

[Received 4:35 p. m.]

92. Salient statements of a lengthy memorandum received from the Minister for Foreign Affairs are to the effect that the Government did indeed try to arrive at a settlement with Mr. Shufeldt but that that cannot be considered as recognition of his alleged rights; that former Minister for Foreign Affairs Salazar had notified Shufeldt before beginning any conversations that the arrangement about to be attempted with him was in conformity with the desire of the Government to maintain cordiality with the Legation of the United States and in nowise as a recognition of rights; that the Under Secretary for Foreign Affairs had said in Spanish to Mr. Hawks that the Minister for Foreign Affairs "sentia" meaning deplored (*lamentaba*); that the project of an agreement between Shufeldt and the Under Secretary of Agriculture had to be approved by the Government in order to become binding, that it was not approved principally because the Government could not agree to cancel rights of Morales and Najera nor make, in view of limitation of the budget, payments within the terms contemplated.

The Minister proposes:

First, that I, as "friendly arbitrator" decide under the conditions set forth in the memorandum of June 27, 1928, (despatch 2202 [2016]) "what in justice there is to be paid if it results that we owe anything in total satisfaction of the claims of Mr. Shufeldt."

Second, a direct arrangement between Mr. Shufeldt and the Ministers of Finance and Agriculture on the same terms of the memorandum of November 30, 1928, given to Mr. David M. Davidson by those Ministers,²⁷ and

Third, if unfortunately the Department of State do not consider [either of?] these proposals acceptable the Government of Guatemala would earnestly desire that the present matter be submitted to the decision of a tribunal on the terms contained in any one of the treaties in force between this government and that of the United States for the solution of international Pan American conflicts.

To me it seems undesirable that I act as arbitrator.

GEISSLER

²⁷ See despatch No. 2202, December 4, 1928, from the Minister in Guatemala, p. 134.

314.115C43/141 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 19, 1929—3 p. m.

[Received 10:10 p. m.]

93. Referring to Legation's telegram of July 19, 10 a. m. Morales and Najera have claimed that Shufeldt owes them in the aggregate about fifty thousand dollars royalty on chicle gathered before the Assembly disapproved the concession, which I understand Shufeldt disputes. See page 6 of despatch 2032.²⁸

A copy of the memorandum of June 27, 1928, referred to in the Minister for Foreign Affairs' memorandum accompanied despatch 2016, July 10, 1928.

GEISSLER

314.115C43/144 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, July 26, 1929—2 p. m.

40. Your telegrams 92 and 93, July 19, concerning Shufeldt claim. As to first proposal of the Guatemalan Government mentioned in your 92, the Department does not deem it desirable for you to act as a "friendly arbitrator". As to the second proposal, Mr. Shufeldt has already declined to accept the terms of settlement mentioned in the memorandum of the Ministers of Agriculture and Finance dated November 30, 1928, first, because the amount mentioned was not deemed sufficient to cover his losses, and second, because the terms of payment were not satisfactory. While the Department would be glad to see this matter settled by a direct agreement between Mr. Shufeldt and the Guatemalan Government, it does not consider that Mr. Shufeldt is unreasonable in declining to accept the proposed settlement just mentioned. Therefore, it seems necessary to resort to the third proposal of the Guatemalan Government, namely, to submit the claim to an arbitral tribunal. The Department suggests that the case be submitted to a special tribunal under the provisions of the second and third articles of the Pan American Pecuniary Claims Convention of 1910.²⁹ In such case, it would seem desirable, in order to prevent unnecessary expense, to submit the case to a single arbitrator. So inform Foreign

²⁸ Dated July 26, 1928; not printed.

²⁹ *Foreign Relations*, 1910, p. 59.

Minister and say that if the Guatemalan Government agrees to the above suggestion, the Department will prepare a *compromis* and forward it to the Guatemalan Government for its consideration. If Guatemalan Government prefers matter can be arranged by an exchange of notes. Report reply briefly by telegraph and fully in writing.

STIMSON

314.115C43/145 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 29, 1929—3 p. m.

[Received 11:40 p. m.]

98. Referring to the Department's telegram of July 26, 2 p. m. The Minister for Foreign Affairs has told me orally that it will be agreeable to submit by notes under the pecuniary claims convention whether Shufeldt is entitled to indemnification and if so how much.

He anticipates Shufeldt may want a citizen of the United States as Arbitrator. He apprehends that part of the Guatemalan press would criticize having a citizen of the United States as sole arbitrator.

He suggests that it be agreed in the notes that the tribunal be selected from the lists provided under the convention for the establishment of a Central American tribunal.³⁰

He suggests that the tribunal meet within 60 days, honorarium not to exceed \$1000 per month for each arbitrator.

He would be glad to have forms of notes submitted for consideration.

I believe that the Minister for Foreign Affairs would, if above acceptable, agree orally to sign immediately thereafter a second note agreeing by name to any one of the persons on the list the United States submitted, plus one from either of the lists submitted by Chile, Colombia, or Cuba, and also to an umpire selected by agreement from the United States list and that the tribunal meet in the United States if that be desired.

If desired that Legation agree on the arbitrators, please indicate an American, also whether there is a preference for the list of Chile, Colombia, and Cuba.

GEISSLER

³⁰ See *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), pp. 296, 298, 299.

314.115C43/147 : Telegram

*The Acting Secretary of State to the Minister in Guatemala
(Geissler)*

WASHINGTON, August 7, 1929—2 p. m.

44. Your telegram 98, July 29. For the sake of expedition and economy the Department still believes it would be preferable to have Shufeldt case decided by a single Arbitrator. Call Foreign Minister's attention to the fact that Article 55, Hague Convention of 1907 for Pacific Settlement of International Disputes,³¹ to which Guatemala and the United States are parties, as well as Pan American Convention of 1910, contains provisions for a single arbitrator. The Department, however, has never suggested an American national as Arbitrator. It has been suggested that Sir Herbert Sisnett, Chief Justice of British Honduras, might be suitable. If the Guatemalan Government cannot agree to his selection or if he is not available, it might be possible to agree upon a Canadian jurist.

While the Department desires that the Tribunal should open its sessions as soon as practicable after the exchange of notes, it considers that the Arbitral procedure should be definitely decided before an attempt is made to fix the time for the Tribunal to sit. The Department also deems it desirable to defer a decision as to the amount of honorarium for the arbitrator. The amount to be paid a single arbitrator might be somewhat in excess of that which would be paid to one of several.

If Sir Herbert Sisnett is selected it would probably be convenient for him to sit at Belize. If a Canadian is selected he might sit in either Canada or the United States.

Discuss with Foreign Minister and telegraph result.

COTTON

314.115C43/148 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, August 8, 1929—5 p. m.

[Received 9:43 p. m.]

102. Referring to the Department's telegram of August 7, 2 p.m. The Minister for Foreign Affairs orally joined in the selection of the Chief Justice of British Honduras and agrees that he sit at Belize.

The Minister suggests that the Department and the Guatemalan Minister in Washington ascertain through the British Embassy whether the Chief Justice accepts. He suggests that if the Chief

³¹ *Foreign Relations*, 1907, pt. 2, pp. 1181, 1192.

Justice does not accept some Cuban could perhaps be agreed upon because of proximity.

The Minister agrees that a decision regarding the honorarium be deferred.

GEISSLER

314.115C43/161

The Secretary of State to the Minister in Guatemala (Geissler)

No. 1184

WASHINGTON, August 28, 1929.

SIR: With reference to previous correspondence concerning the Shufeldt claim, particularly your telegrams Nos. 98 and 102 of July 29 and August 8, 1929, you are informed that the Department is taking steps to ascertain, through the British Embassy in this city, whether Sir Herbert Sisnett, Chief Justice of British Honduras, can serve as sole arbitrator, and you will be duly informed of the result. Meantime, with a view to reaching, through an exchange of notes, a definitive agreement concerning the arbitration, you are instructed to present to the Guatemalan Foreign Office a note reading as follows:

"Referring to previous correspondence between the Legation and the Guatemalan Foreign Office concerning the claim of P. W. Shufeldt against the Government of Guatemala, which claim has been espoused by the Government of the United States, I hereby confirm my previous statements to the effect that the Government of the United States is desirous of having this question submitted to a single arbitrator, to be agreed upon by the two Governments. The question to be submitted to the arbitrator is as follows:

"What sum, if any, is justly due from the Guatemalan Government to the Government of the United States on account of the action of the Guatemalan Government in canceling by a legislative decree (No. 1544) of May 22, 1928, approved by the President on July 4, 1928, a contract celebrated on February 4, 1922, between the Government and Srs. Francisco Najera A. and Victor M. Morales I., for the extraction within a defined area of the Department of Petén, and exportation, of a minimum of 75,000 quintals of chicle over a period of ten years, the rights of the said Najera and Morales having been ceded, by a contract of February 11, 1922, to P. W. Shufeldt, a citizen of the United States, which was recognized and accepted by the Guatemalan Government."

"It is proposed that the following procedure shall govern the presentation and adjudication of the case by the tribunal, and the payment of the award, if any:

I

"The arbitrator shall sit at a place to be agreed upon by the two Governments.

II

“Each Government shall designate an Agent or Counsel, or both, to present its case to the tribunal and to make arguments and submit evidence in support thereof.

III

“The cases of the two Governments, which shall contain a statement of the law and facts relied upon together with the supporting evidence, shall be presented in writing, in either the English or the Spanish language, to the arbitrator within a period of sixty days after the exchange of notes between the two Governments by which the arbitration is agreed upon. A copy of the case of each Government shall at the same time be submitted by its Agent to the Agent of the other Government. If either Agent submits with the case of his Government original documents as evidence, copies thereof shall accompany the copy of the case furnished to the other Agent.

“The arbitrator shall begin his consideration of the cases of the two Governments upon their receipt by him.

IV

“Within a period of sixty days following the termination of the sixty days period mentioned in the preceding article, the Agent of each Government may submit to the arbitrator a counter case, which shall be restricted to matters in answer to the case of the opposite party. A copy of the counter case of each Government shall at the same time be submitted by its Agent to the Agent of the other Government.

V

“Within a period of thirty days following the termination of the sixty days period mentioned in the preceding article, both Governments may, in the discretion of the arbitrator, be allowed to submit oral or written arguments concerning matters brought up in the cases and counter cases.

VI

“Each Government shall have the right to the discovery of any documents that are relevant to the matters at issue, and original documents or certified copies of originals shall be furnished upon reasonable notice, provided that their production is compatible with the public interest.

VII

“The tribunal shall have authority to establish such other rules for its proceedings, not in conflict with any of the provisions herein contained, as may be deemed expedient and necessary.

VIII

“The tribunal shall keep a record of its proceedings.

“The two Governments shall assign to the tribunal such clerical or other assistants as may be necessary.

"The tribunal is authorized to administer oaths to witnesses and to take evidence on oath.

IX

"The decision of the tribunal shall be given within a period of sixty days following the termination of the thirty days period mentioned in Article V.

"The decision, when made, shall be forthwith communicated to the Governments at Washington and Guatemala. It shall be accepted as final and binding upon the two Governments.

X

"Each Government shall pay its own expenses and one-half of the common expenses of the arbitration.

XI

"The amount granted by the award, if any, shall be payable in gold coin of the United States, at the Department of State, Washington, within one year after the rendition of the decision by the tribunal, with interest at 6 per centum per annum, beginning to run one month after the rendition of the decision.

"The reply of the Foreign Office will be duly communicated to the Department of State at Washington."

You are requested to report briefly by telegraph and fully in writing the response of the Guatemalan Foreign Office to the above quoted note. If the response is an acceptance, the sixty days period within which the cases of the two Governments must be placed in the hands of the arbitrator will begin to run from the date of its receipt by the Legation.

You will observe that the note contains no statement concerning the honorarium to be paid to the arbitrator. You may take this matter up separately with the Minister of Foreign Affairs and suggest that an honorarium of \$1200 per month would seem to be reasonable. In your telegram of July 29 you reported the suggestion of the Minister that there should be three arbitrators, each of whom should receive an honorarium not to exceed \$1000 per month. As the task of a sole arbitrator would necessarily be more onerous than that of one member of a tribunal composed of three, a sum in excess of that proposed by the Minister seems reasonable.

I am [etc.]

J. P. COTTON

314.115C43/162 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, September 21, 1929—9 a. m.

[Received 4 p. m.]

118. In a lengthy note received last evening the Minister for Foreign Affairs objects that the proposed question in the proposed Shufeldt arbitration involves unacceptable acknowledgments; that the action of the Assembly "in not approving the contract" gives a right to indemnification; that the President had authority to approve legislative acts, which is denied, although he may veto; and that "the Government of Guatemala" having made a contract, disapproved it. He proposes to submit instead to the arbitrator: "Has Shufeldt the right to collect from the Government of Guatemala indemnification for damages and injuries because the Legislative Assembly did not approve the contract," and if so, how much.

Details by mail.

GEISSLER

314.115C43/167

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2572

GUATEMALA, September 21, 1929.

[Received October 2.]

SIR: I have the honor to enclose a copy of a note, dated September 21, 1929,³² in which I informed Minister for Foreign Affairs Eduardo Aguirre-Velásquez, that a copy of his note of September 19, 1929, relating to the claim of P. W. Shufeldt against the Government of Guatemala has been transmitted to the Department of State. That copy of his note accompanied despatch 2570 of September 20, 1929.^{32a} A translation is enclosed herewith.

It will be observed, that in my communication to Dr. Aguirre-Velásquez I also took note of his concurring in the suggestion that twelve hundred dollars per month would seem to be a reasonable honorarium for the arbitrator and that I told him that his suggestion that a Cuban be selected as arbitrator, in case the Chief Justice of Belize cannot act, was brought to the attention of the Department on August 8.

It will also be seen, that in view of the statement in the note of the Minister for Foreign Affairs that he had said to me that the Government of Guatemala accepts submission of the question whether Mr. Shufeldt may collect indemnification "because the Assembly of Guatemala did not approve the chicle contract", I recited in my note,

³² Not printed.^{32a} Despatch No. 2570 not printed.

that he had told me on July 29, that it would be agreeable to submit to arbitration the question "whether Shufeldt is entitled to indemnification and if so how much", and that in my note, with a desire to facilitating agreement, I added that he and the Department appear to be agreed now that the question should be defined with more detail in the proposed identical notes and that I believe agreement on the precise language should not present great difficulty.

I have [etc.]

ARTHUR H. GEISSLER

[Enclosure—Translation]

*The Guatemalan Minister for Foreign Affairs (Aguirre Velásquez)
to the American Minister (Geissler)*

GUATEMALA, September 19, 1929.

MR. MINISTER: I have the honor to refer to Your Excellency's note dated the tenth of the present month, in which you are pleased to tell me that, the Government of the United States having taken charge of the claim of P. W. Shufeldt against the Government of Guatemala, it confirmed the previous declaration by which the Government of the United States desires that this question be submitted to a single arbitrator, with regard to which both Governments will be in agreement, the following formula being the one which will be submitted to arbitration:

"What sum, if any, is justly due from the Guatemalan Government to the Government of the United States on account of the action of the Guatemalan Government in canceling by a legislative decree (No. 1544) of May 22, 1928, approved by the President on July 4, 1928, a contract celebrated on February 4, 1922, between the Government and Messrs. Francisco Nájera A. and Victor M. Morales I., for the extraction within a defined area of the Department of Petén, and exportation, of a minimum of 75,000 quintals of chicle over a period of ten years, the rights of the said Nájera and Morales having been ceded, by a contract of February 11, 1922, to P. W. Shufeldt, a citizen of the United States, which was recognized and accepted by the Guatemalan Government."

And you kindly propose, besides, the proceedings which the tribunal is to follow and how the sum is to be paid, in case of judgment being passed to that effect.

The language which Your Excellency proposes as a formula containing the question which the arbitration is to decide, is not clear when translated into the Spanish language, since the translation, such as it is transcribed, gives one to understand that it deals concretely with the fixing of the sum of money which the Government of Guatemala must pay to that of the United States, due to the action it took in canceling, by legislative decree, approved by the President, the contract entered into by the same Government of Guatemala, with Nájera and Morales, and ceded to Shufeldt.

The language which Your Excellency proposes leaves established the following facts which my Government does not in any manner accept: *a)* That the Government of Guatemala acknowledges that the action of its Legislative Power in not approving the contract entered into with Morales and Nájera, and ceded to Shufeldt, gives that citizen of the United States a right to collect a sum of money as indemnification; *b)* that the President of Guatemala has the power to approve the acts of the Legislative Power, the contrary being the case; *c)* that the Government of Guatemala after having made the contract regarding extraction and exportation of chicle and approving it, now disapproves it, thus incurring a crass and inconsistent contradiction with itself.

As to these three points, which would be equal to acknowledging obligation to pay the indemnity demanded, Your Excellency well knows that they have never been acknowledged, by the Government of Guatemala, but that, on the contrary, it has maintained and maintains that its action has been within strict constitutional duties without its having incurred any error which can be construed as a deviation from the standards of strict justice.

The President neither approves nor disapproves the acts proceeding from the Legislative Power, as the formula, which Your Excellency proposes, states; the President respects and sanctions the Legislative Decrees, by virtue of the clear constitutional prescription which establishes it in this manner; and only in very limited cases can he veto the acts of the Legislative Power.

With respect to point *c)* of the formula, I must make it clear to the Minister that the Government has not become liable for the inconsistency to which it is desired to make it confess, but that, within the constitutional procedure, the Assembly did not give its approval to the Morales-Nájera A. contract and the President placed "execute," which signifies the sanction which he gives to the laws.

Fortunately Your Excellency will remember our conversation on the subject, when I told you that the Government of Guatemala accepted with pleasure submission to the arbitral decision of the Chief Justice of Belize, of the pending question, comprising these two different points:

First: Has Shufeldt a right to indemnification because the Assembly of Guatemala did not approve the chicle contract?

Second: In case this right is determined, what is the sum in which it is valued?

Likewise, Your Excellency will remember the suggestion that I made that you kindly transmit to the Department of State, that, in the unexpected event that the Chief Justice of Belize could not perform the duty of arbitrator, there be appointed in his stead one of the Cuban Judges from the list pre-established in conformity with the Central

American Treaty of 1923, concluded at Washington, under the auspices and friendly counsels of the Government of the United States, completing this, as part of the conversation which I had the honor and the pleasure to carry on with Your Excellency, with the ratification of that already considered with regard to the salary of the arbitrator, which we fixed then in the sum of one thousand two hundred dollars monthly.

In virtue of what I have related I am pleased to inform Your Excellency, with the request that you transmit it to the Department of State, that the Government of Guatemala accepts with pleasure to submit to the arbitration of the Chief Justice of Belize the pending question expressed in the following terms:

First. Has Shufeldt the right to collect from the Government of Guatemala indemnification for damages and injuries, because the Legislative Assembly did not approve the contract of the fourth of February 1922, entered into between the Department of Agriculture and Messrs. Francisco Nájera A. and Victor M. Morales I., for the extraction, within a defined area of the Department of the Petén, and exportation of not less than 75,000 quintals of chicle during a period of ten years; which contract was ceded by Nájera and Morales to Shufeldt by a contract dated February 11, 1922?

Second. In case the arbitrator declares in favor of Shufeldt regarding the right to receive the indemnification demanded, what is the amount of that indemnification and how is it to be paid?

The proceeding proposed by Your Excellency is accepted, by my Government, in principle, with a few corrections of simple detail which should offer no difficulty in its wording.

314.115C43/164 : Telegram

The Secretary of State to the Minister in Guatemala. (Geissler)

WASHINGTON, October 1, 1929—5 p. m.

53. Your 118, September 21. In view of suggestions of the Guatemalan Minister for Foreign Affairs, the Department is willing to modify the statement of the question in the Shufeldt arbitration to read as follows:

“What sum, if any, is justly due from the Guatemalan Government to the Government of the United States on account of damages sustained by P. W. Shufeldt, a citizen of the United States, as a result of the action of the Guatemalan Government in enacting legislative decree No. 1544 of July 4, 1928, declaring “disapproved” a contract of February 4, 1922, celebrated between the Government and Messrs. Francisco Najera A. and Victor M. Morales I. for the extraction of a minimum of 75,000 quintales of chicle in a defined area over a period of ten years, the rights of the said Najera and Morales having been ceded by a contract of February 11, 1924 [1922], to the said P. W. Shufeldt.”

If this statement is acceptable to the Guatemalan Government, proceed with exchange of notes and telegraph Department.

STIMSON

314.115C43/169 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, October 5, 1929—1 p. m.

54. Your despatch 2572, September 21. If Guatemalan Government objects to statement of question in Shufeldt arbitration contained in Department's telegram of October 1, you may say that the Department has no desire or intention to formulate the question in such a way that it will involve an acknowledgment of liability by the Government of Guatemala, which question is to be determined by the arbitrator. The Department is willing to accept the formula proposed by the Government of Guatemala with the following changes:

(1) Change the first four lines to read as follows: "Is the Government of the United States, in behalf of P. W. Shufeldt, a citizen of the United States, justly entitled to receive from the Government of Guatemala indemnification for damages and injuries sustained by Shufeldt as a result of the action of the Guatemalan Government in enacting legislative decree No. 1544 of July 4, 1928, declaring 'disapproved' a contract of the fourth of February, 1922, entered into," etc.;

(2) In the second paragraph, substitute "the United States" for "Shufeldt", and strike out the words, "and how is it to be paid?" The Department considers that this is not a proper question for decision by the Arbitrator, but is one to be decided in advance directly by the two Governments. See Paragraph XI of proposed note quoted in Department's instruction of August 28.

STIMSON

314.115C43/173

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2607

GUATEMALA, October 9, 1929.

[Received October 16.]

SIR: In the matter of the claim of P. W. Shufeldt against the Government of Guatemala, I have the honor to report that Minister for Foreign Affairs Eduardo Aguirre-Velásquez now proposes a formula to be submitted to the arbitrator which, if I can secure a slight but important change, will perhaps be acceptable, but that, on the other hand, he now suggests quite a number of modifications of the mode of procedure.

For a week, beginning about September 28, Dr. Aguirre-Velásquez was reported ill and remained almost constantly at his residence, where, however, he dispatched correspondence.

Under the circumstances, I delayed action on the Department's cablegram of October 1, 5 p. m., containing a modified draft of the

formula, and I so reported by cablegram of October 4, 5 p. m.³³ However, at that time, I decided that it would be best to send him, by personal letter, the modified draft of the formula proposed by the Department. I did so, as shown by the enclosed copy of that letter, dated October 4.³⁴ It appeared to me, as I stated to him, that the formula fits the situation with great precision. Therefore I hoped that he would accept it. It will be observed, that I also mentioned that he had reserved the right to suggest some modifications of detail in the proposed procedure and that I stated that not having heard further from him, I was thinking that he had, upon consideration, come to the conclusion that the proposed text is acceptable.

Having done that, there did not appear to be for the moment, occasion to utilize the modified draft of the formula embodied in the Department's cablegram of October 5, 1 p. m.

The evening of October 8, I received a note, of that date, a copy of which is enclosed with a translation. It will be observed, that the Minister abandoned some of his previous unacceptable phraseology regarding the formula, but that on the other hand he makes rather extensive changes in the proposed method of procedure. In fact, it would seem, that he added two articles and rewrote seven of the eleven articles proposed by the Department, splitting one of them, and that then he decided to accept the remaining four as submitted.

Desiring to avoid the exchange of additional formal notes on the subject, until the text of the proposed identical notes embodying the agreement had been informally accepted by both parties, and since I did not wish to intrude myself on the Minister with a visit in person while he was at home on account of illness, I had marked my letter of October 4, "Personal" and had stated that I was undertaking to submit a suggestion in that "unofficial fashion". However, evidently Dr. Aguirre-Velásquez decided that he preferred to answer in an official note. Hence I replied with an official note to his of October 8.

It will be observed from the enclosed copy, that in that reply of mine, also dated October 8, I made a further effort to have the Minister for Foreign Affairs accept the phrase "by which the Assembly disapproved the contract" for the phrase "by which it did not approve the contract", and that I suggested, in substance, that, since the Chief Justice of British Honduras has, as far as I am informed, not yet agreed to act as arbitrator, Article 1 of the proposed procedure read, (as had been suggested by the Department) that the arbitrator sit at a place to be agreed upon, instead of providing that (as proposed by Dr. Aguirre-Velásquez) he shall sit at Belize.

At the time of writing this despatch, my note of October 8 has, I believe, already reached the Minister for Foreign Affairs. With it

³³ Letter not printed.

³⁴ Not printed.

I sent an oral suggestion, that I should be very glad if an answer could be received before the weekly mail closes tonight. If the answer comes later, I shall cable its substance.

Since this is a very busy mail day, I have not had time to study the formula very critically, nor the modifications of the procedure which Dr. Aguirre proposes. However, I respectfully recommend that the Department, if the Minister agrees that the phrase referring to the action of the Assembly shall read "it disapproved the contract", give serious consideration to the desirability of accepting his proposal as thus modified. In other words, from a hasty reading, I have received the impression, that it may be more desirable for Mr. Shufeldt to accept the proposal if thus modified, rather than to take a chance on further delay. Of course, if it be deemed that further modifications are important, I shall take pleasure in endeavoring to secure them.

I have [etc.]

ARTHUR H. GEISSLER

[Enclosure 1—Translation]

*The Guatemalan Minister for Foreign Affairs (Aguirre Velásquez)
to the American Minister (Geissler)*

No. 10564

GUATEMALA, October 8, 1929.

MR. MINISTER: I have received Your Excellency's communication dated the 4th of October in which you are pleased to present, unofficially, a suggestion with reference to the formula of the question which will be submitted to arbitration in the Shufeldt matter.

Your Excellency is pleased to add, that in view of the suggestions made by this office in note of September 18 [19], 1929, the Department of State is in favor of agreeing, that the matter which is to be submitted to arbitration, be modified in such a way that it shall stand in the following form:

"What sum, if any, is justly due from the Guatemalan Government to the Government of the United States on account of damages sustained by P. W. Shufeldt, a citizen of the United States as a result of the action of the Guatemalan Government in enacting Legislative Decree Number fifteen forty-four of July 4, 1928, declaring 'disapproved' a contract of February 4, 1922, celebrated between the Government and Messrs. Francisco Nájera A. and Víctor M. Morales I. for the extraction of a minimum of seventy-five thousand quintales of chicle in a defined area over a period of ten years, the rights of the said Nájera and Morales having been ceded by a contract of February 11, 1924 [1922] to the said P. W. Shufeldt".

Your Excellency adds that this formula seems to fit the situation exactly and you trust that it will merit the approval of this Office. And, as to the procedure, declared acceptable in principle, you are pleased to tell me that not having received word with respect to it, you conclude that the text proposed will be the final form.

It is my pleasure to remind Your Excellency that my Government agreed to submit to the arbitration of the Chief Justice of Belize the pending question of the claim of Mr. Shufeldt, therefore it does not evade the responsibilities which may result, in case the corresponding declaration is made by the arbitrator; but, it does desire that the case under discussion be established in a clear manner, which will not allow room for different interpretations and which is reduced to a comprehensive formula of the different points of view of each party.

For this purpose, I had the honor to propose to the Department of State the formula contained in my note of the 18th of September in which were shown the two principal points of the arbitration, namely:

1. Has Shufeldt a right to indemnification because the Assembly of Guatemala did not approve the chicle contract?
2. In case this right is determined, what is the sum in which it is valued?

Since, from Your Excellency's communication, it appears that the wording of the two points of the arbitration did not seem to you sufficiently clear, I take the liberty of proposing a new form which, conserving the idea expressed by Your Excellency, is comprehensive of the question, in its two aspects, for the better understanding of the matter; but before doing so, I must state to Your Excellency, that the formula which your esteemed note of the 4th of October proposes, on being translated into the Spanish language, becomes somewhat ambiguous and confused, it remaining as a secondary point and almost preestablished, that Shufeldt has had the right to collect from the Government of Guatemala an indemnification, for legal acts of its constitutional life, it being thus, for my Government, the principal point which it wishes to submit to the decision of the judgment of the arbitrators. Scarcely in a single phrase, "if any", between two commas, is there left an accidental possibility for considering or discussing the existence of the right which Shufeldt claims, all preference and importance being given to the fixing of the amount or sum to which the indemnification amounts, the point being that the fixing of the sum to be paid shall be a consequence of the arbitrator's having previously declared that an indemnification is legally due.

It being the intention of both parties, that the formula, which contains the arbitration, be clear and explicit, I am sure that the Government of the United States would desire, as that of Guatemala strongly desires, that its wording will not allow room for doubts or different interpretations, but that in its clarity it will contain that which the arbitrator will have to judge and to solve.

In order to secure that end, I take pleasure in proposing to Your Excellency in order that you may be pleased to submit it to the consideration of the Department of State, the following formula, duly separating the two aspects of the question :—

1. Has P. W. Shufeldt, a citizen of the United States, as cessionary of the rights of Victor M. Morales I, and Francisco Nájera Andrade, the right to claim a pecuniary indemnification for damages and injuries which may have been caused to him by the promulgation of the Legislative Decree of the Assembly of Guatemala No. 1544, by which it did not approve the contract of February 4, 1922, for the extraction of a minimum of 75,000 quintales of chicle, in a defined area in the Department of the Petén, the cession of Nájera Andrade and Morales in favor of Shufeldt having been made by contract of February 11, 1924 [1922] ?

2. In case the arbitrator declare that Shufeldt does have the right to having an indemnification paid to him by the Government of Guatemala, what sum should the Government of Guatemala in justice pay to the Government of the United States for the account of Shufeldt ?

I believe that Your Excellency will find sufficiently explicit and comprehensive the formula of the arbitration which I take the liberty of proposing to you and that it will satisfy the desire for justice which both Governments look for in the arbitral judgment which it is proposed to establish.

As to the method, I am pleased to suggest to Your Excellency a few modifications, for its better clarification and understanding, they being in the following form :

1. The Tribunal shall sit at Belize, residence of the arbitrator.

2. Each Government shall appoint a representative who shall have the authority necessary to appear before the arbitrator and to represent his Government.

3. The first day of January 1930 is fixed as the day on which the representatives of the parties shall meet at Belize and appear before the arbitrator, presenting their credentials. If they be in good and due form, the arbitrator shall declare the proceedings open.

4. The representatives of the parties shall present before the arbitrator a statement of allegations which shall comprise their respective points of view in the relation of the facts, the statements of the juridic points upon which their cause is based and all the proofs which they may wish to present as basis for their claims. They may be set forth in English or in Spanish. The term, within which the statement of their cause must be presented by the parties, is that of thirty days counted from the time when the arbitrator declares the proceedings open.

5. Each party shall deliver to the other party a textual copy of its statements, allegations and proofs.

6. Within sixty days counted from the day on which the last of the parties presented the statement of its cause, in conformity with

Article 4, each party shall have the right to present a reply to the allegations of the other party. A copy of that reply shall be delivered to the other at the time of being presented to the arbitrator.

7. Within thirty days following the termination of the sixty days' period mentioned in Article 6, the parties may make oral or written allegations before the arbitrator, summarizing the proofs and the arguments produced in the allegations.

8. Each Government shall have the right to exhibit all documents pertaining to the subject matter of the arbitration, and the original documents or copies certified by a notary or public officials, whatever may be their character.

9. The arbitrator shall have authority to establish such rules of procedure as he may deem opportune and conducive to the success of the arbitral proceedings, always provided that they do not contradict the bases laid down in the protocol of arbitration.

10. The tribunal shall keep a record of its proceedings. The two Governments shall assign to the Tribunal such amanuenses, interpreters and employees as may be necessary. The Tribunal is authorized to administer oaths to witnesses and to take evidence on oath.

11. The decision of the Tribunal shall be given within a period of sixty days following the termination of the thirty days' period mentioned in Article 7. The decision, when made, shall be forthwith communicated to the Governments at Guatemala and Washington. It shall be accepted as final and binding upon the two Governments.

12. Each Government shall pay its own expenses and one-half of the common expenses of the arbitration.

13. The amount granted by the award, if any, shall be payable in gold coin of the United States at the Department of State, Washington, within one year after the rendition of the decision by the tribunal, with interest at six per centum per annum, beginning to run one month after the rendition of the decision.

14. The honorarium and emoluments of the arbitrator shall be as agreed upon in previous correspondence.

I take [etc.]

ED. AGUIRRE V.

[Enclosure 2]

The American Minister (Geissler) to the Guatemalan Minister for Foreign Affairs (Aguirre Velásquez)

No. 85

GUATEMALA, October 8, 1929.

MR. MINISTER: In reading the note of Your Excellency bearing number 10564, of this date, just received, regarding the matter of the claim of Mr. P. W. Shufeldt, I notice that in the formula which you propose for the arbitration of the dispute, you use, after referring to the "Legislative Decree of the Assembly of Guatemala No. 1544", the words:—"por el cual no aprobó el contrato" ("by which it did not approve the contract").

In view of the fact that, as shown by *El Guatemalteco* of July 23, 1928, Decree No. 1544 reads, in part, as follows:—"Artículo único.—Se desaprueba el contrato", it occurs to me, that you may be willing

to inform me, before I submit to the Department of State your proposal of October 8, that you agree that the phrase under consideration shall in the proposed arbitration agreement read "por el cual desaprobó el contrato" ("by which it disapproved the contract") instead of "por el cual no aprobó el contrato".

The Department of State will doubtless have no objection to having the arbitrator sit at Belize, if the Chief Justice of British Honduras acts as arbitrator. However, so far as I am informed, he has not yet accepted. Hence it may conceivably become necessary to agree on another arbitrator. That person may possibly be one residing in some other country. Therefore I suggest that it be agreed that the article of the proposed procedure which bears Number One read as follows:—

"The arbitrator shall sit at a place to be agreed upon by the two Governments".

The other changes you propose I shall submit to the Department of State for its consideration.

I avail myself [etc.]

ARTHUR H. GEISSLER

314.115C43/174

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2608

GUATEMALA, October 9, 1929.

[Received October 17.]

SIR: Referring to the matter of the claim of P. W. Shufeldt against the Government of Guatemala, I have the honor to enclose, with a translation, a copy of a note received just before the weekly mail closes, in which Minister for Foreign Affairs Eduardo Aguirre-Velásquez accepts the two modifications of his proposal of October 8, 1929, which I suggested to him by my note of that same date, as reported in despatch 2607 of October 9. It will be observed, that his translation into Spanish of the proposed Article 1 of the procedure does not quite agree with mine, but it appears to be acceptable.

I have [etc.]

ARTHUR H. GEISSLER

[Enclosure—Translation]

The Guatemalan Minister for Foreign Affairs (Aguirre Velásquez) to the American Minister (Geissler)

No. 10615

GUATEMALA, October 9, 1929.

MR. MINISTER: I am pleased to refer to the Note of Your Excellency dated yesterday, in which you were pleased to state that in my note dated the 8th regarding the formula which I permitted myself to propose with a view to its comprising the question to be submitted

to arbitration in the Shufeldt matter there was used the phrase "by which it did not approve the contract" but in view that Legislative Decree No. 1544 uses the words "the contract is disapproved", Your Excellency suggests, that (the former) grammatical construction be substituted by the second one used in the Legislative Decree.

Your Excellency was also pleased to observe that, as until now there is no certainty that the Chief Justice of British Honduras will accept being arbitrator, it would be appropriate to substitute for the designation of the City of Belize, as seat of the arbitration, the following expression:—

"The arbitration shall occur at a place to be agreed upon by the two Governments".

In reply I have the honor to inform Your Excellency that I consider the two observations which you were pleased to make just and pertinent, and they are henceforth accepted.

I avail myself [etc.]

ED. AGUIRRE V.

314.115C43/176 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, October 30, 1929—2 p. m.

62. Your 2607 and 2608, October 9. Department agrees to formula for arbitration of Shufeldt claim proposed by Guatemalan Government, with change in form of question mentioned in your 2608, provided following changes are also made.

In paragraph two insert "one or more" before "representative" and make latter plural. Strike out "his Government" and insert "it".

In paragraph three change "January" to "February". In view of the expected participation by this Government in the Conference on Codification at The Hague in March a postponement of the arbitration proceedings of one month seems necessary. Strike out "meet at Belize and appear before the arbitrator", change "presenting" to "present", and add after "credentials", the words "to the arbitrator, either in person or through their respective consular officers".

In paragraph four strike out "present before" and insert "submit to", insert "written" before "statement", and strike out "of allegations". Change "point" to "points".

At the end of fifth paragraph add "when the originals thereof are submitted to the arbitrator".

In paragraph six line four insert "written" before "reply".

In paragraph seven line three strike out "may make oral or written allegations before" and insert "may present oral or written arguments to", strike out "allegations" at the end and insert "statements".

Add "but no additional evidence shall be presented except at the request of the arbitrator".

In paragraph eight add at the end, "and to request the production of such documents by the other party".

Department just informed that Sir Herbert Sisnett will serve as arbitrator. Therefore it is expected that arbitration will be held at Belize.

STIMSON

314.115C43/178 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, October 31, 1929—8 p. m.

[Received 10:55 p. m.]

141. Referring to the Department's telegram of October 30, 2 p. m. Kindly cable quickly whether the first paragraph of the note may read as follows, after the words United States:

"it is agreed by the two Governments that this question shall be submitted to the Chief Justice of British Honduras as Arbitrator. The question to be submitted to the Arbitrator is as follows."

The Minister for Foreign Affairs has orally agreed to the changes proposed in the Department's October 30, 2 p. m.

GEISSLER

314.115C43/179 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, November 2, 1929—3 p. m.

65. Your 141 of October 31. Department agrees in substance to proposal of Guatemalan Government but considers the name of the arbitrator should appear and that the passage in question should read as follows:

"it is agreed by the two governments that this question shall be submitted to Sir Herbert Sisnett, Chief Justice of British Honduras as arbitrator. The question to be submitted to the arbitrator is as follows."

STIMSON

314.115C43/183

The Minister in Guatemala (Geissler) to the Secretary of State

No. 2635

GUATEMALA, November 4, 1929.

[Received November 13.]

SIR: Referring to the Legation's cablegram No. 143 of November 4, 2 p. m.,³⁵ I have the honor to enclose a copy of my note dated

³⁵ Not printed.

November 2, 1929, setting forth, with reference to previous correspondence, that it is agreed between the Government of the United States and that of Guatemala that the claim of P. W. Shufeldt against the Guatemalan Government shall be submitted to Sir Herbert Sisnett, Chief Justice of British Honduras, as arbitrator, and reciting the formula and the procedure; and I also beg leave to transmit, with a translation, a copy of the note of the Minister for Foreign Affairs, of November 2, in which, as briefly reported in that cablegram, he stated that he accepts "the text proposed" in my abovementioned note.

I have [etc.]

ARTHUR H. GEISSLER

[Enclosure 1]

The American Minister (Geissler) to the Guatemalan Minister for Foreign Affairs (Aguirre Velásquez)

No. 96

GUATEMALA, November 2, 1929.

MR. MINISTER: Referring to previous correspondence between the Legation and the Guatemalan Foreign Office concerning the claim of P. W. Shufeldt against the Government of Guatemala, which claim has been espoused by the Government of the United States, it is agreed by the two Governments that this question shall be submitted to Sir Herbert Sisnett, Chief Justice of British Honduras, as arbitrator. The question to be submitted to the arbitrator is as follows:

1. Has P. W. Shufeldt, a citizen of the United States, as cessionary of the rights of Victor M. Morales I. and Francisco Nájera Andrade, the right to claim a pecuniary indemnification for damages and injuries which may have been caused to him by the promulgation of the Legislative Decree of the Assembly of Guatemala No. 1544, by which it disapproved the contract of February 4, 1922, for the extraction of a minimum of 75,000 quintales of chicle, in a defined area in the Department of the Petén, the cession of Nájera Andrade and Morales in favor of Shufeldt having been made by contract of February 11, 1924 [1922]?

2. In case the arbitrator declare that Shufeldt does have the right to having an indemnification paid to him by the Government of Guatemala, what sum should the Government of Guatemala in justice pay to the Government of the United States for the account of Shufeldt?

It is proposed that the following procedure shall govern the presentation and adjudication of the case by the tribunal, and the payment of the award, if any:

1. The Tribunal shall sit at Belize, residence of the arbitrator.
2. Each Government shall appoint one or more representatives who shall have the authority necessary to appear before the arbitrator and to represent it.
3. The first day of February 1930 is fixed as the day on which the representatives of the parties shall present their credentials to the

arbitrator either in person or through their respective Consular Officers. If they be in good and due form, the arbitrator shall declare the proceedings open.

4. The representatives of the parties shall submit to the arbitrator a written statement which shall comprise their respective points of view in the relation of the facts, the statements of the juridic points upon which their cause is based and all the proofs which they may wish to present as basis for their claims. They may be set forth in English or in Spanish. The term, within which the statement of their cause must be presented by the parties, is that of thirty days counted from the time when the arbitrator declares the proceedings open.

5. Each party shall deliver to the other party a textual copy of its statements, allegations and proofs when the originals thereof are submitted to the arbitrator.

6. Within sixty days counted from the day on which the last of the parties presented the statement of its cause, in conformity with Article 4, each party shall have the right to present a written reply to the allegations of the other party. A copy of that reply shall be delivered to the other at the time of being presented to the arbitrator.

7. Within thirty days following the termination of the sixty days' period mentioned in Article 6, the parties may present oral or written arguments to the arbitrator, summarizing the proofs and arguments produced in the statements but no additional evidence shall be presented except at the request of the arbitrator.

8. Each Government shall have the right to exhibit all documents pertaining to the subject matter of the arbitration, and the original documents or copies certified by a notary or public officials, whatever may be their character and to request the production of such documents by the other party.

9. The arbitrator shall have authority to establish such rules of procedure as he may deem opportune and conducive to the success of the arbitral proceeding, always provided that they do not contradict the bases laid down in the protocol of arbitration.

10. The tribunal shall keep a record of its proceedings. The two Governments shall assign to the Tribunal such amanuenses, interpreters and employees as may be necessary. The Tribunal is authorized to administer oaths to witnesses and to take evidence on oath.

11. The decision of the Tribunal shall be given within a period of sixty days following the termination of the thirty days' period mentioned in Article 7. The decision, when made, shall be forthwith communicated to the Governments at Guatemala and Washington. It shall be accepted as final and binding upon the two Governments.

12. Each Government shall pay its own expenses and one-half of the common expenses of the arbitration.

13. The amount granted by the award, if any, shall be payable in gold coin of the United States at the Department of State, Washington, within one year after the rendition of the decision by the tribunal, with interest at six per centum per annum, beginning to run one month after the rendition of the decision.

14. The honorarium and emoluments of the arbitrator shall be as agreed upon in previous correspondence.

I avail myself [etc.]

ARTHUR H. GEISSLER

[Enclosure 2—Translation]

*The Guatemalan Minister for Foreign Affairs (Aguirre Velásquez)
to the American Minister (Geissler)*

No. 11429

GUATEMALA, November 2, 1929.

MR. MINISTER: Referring to previous correspondence between the Ministry for Foreign Affairs and the Legation of the United States regarding the claim of P. W. Shufeldt against the Government of Guatemala, espoused by the Government of the United States, I am pleased to inform Your Excellency that my Government accepts with pleasure the text proposed in the note of Your Excellency and which contains the two aspects of the question to be decided by the Chief Justice of British Honduras as arbitrator, the text thereof being as follows:

[Here follows text of question to be submitted to the arbitrator, as quoted in note No. 96, November 2, 1929, from the American Minister in Guatemala to the Guatemalan Minister for Foreign Affairs, printed *supra*.]

The Government of Guatemala likewise accepts the procedure to be followed before the tribunal for the presentation of the case, its decision and discussion and the payment of the indemnification, if such be adjudged, and which is contained in the following points:—

[Here follows text of procedure as set forth in note No. 96, November 2, 1929, from the American Minister in Guatemala to the Guatemalan Minister for Foreign Affairs, printed *supra*.]

I avail myself [etc.]

ED. AGUIRRE V.

314.115C43/200

The Acting Secretary of State to the Consul at Belize (Taggart)

WASHINGTON, January 17, 1930.

SIR: On November 2 the American Minister at Guatemala City addressed a note to the Minister for Foreign Affairs of Guatemala, reading as follows:

[Here follows text of note No. 96, November 2, 1929, from the American Minister in Guatemala to the Guatemalan Minister for Foreign Affairs, printed on page 162.]

On the same date the Guatemalan Foreign Minister addressed a note to the American Minister at Guatemala City agreeing to the terms of the arbitration proposed in his note. Copies of these notes have already been furnished to the Arbitrator.

With reference to paragraphs 2 and 3 of the note from the American Minister quoted above, you are informed that the Government

of the United States has designated Mr. Richard W. Flournoy, Assistant Solicitor of this Department, as Counsel, and Mr. Charles F. Wilson, Attorney at Law, Washington, D. C., as Associate Counsel, to represent it before the Arbitrator. You are requested to inform the Arbitrator on February 1, 1930, of these designations in accordance with the provisions of paragraph 3 of the note quoted above. At the same time you will present to the Arbitrator the enclosed copy of this instruction, certified under the seal of your office.

I am [etc.]

FRANCIS WHITE

314.115C43/205

The Consul at Belize (Taggart) to the Secretary of State

No. 162

BELIZE, February 1, 1930.

[Received February 5.]

SIR: I have the honor to report compliance with instruction dated January 17, 1930, file No. 314.115C43/183[200], relating to the claim of Mr. P. W. Shufeldt, American citizen living in Belize, against the Guatemalan Government, by delivery on this day by me to Sir Herbert Sisnett, Chief Justice of British Honduras, arbitrator, of a certified copy of said instruction.

The Guatemalan Government was represented by attorneys Octavio Aguilar and Francisco Barrios Solis, both of Guatemala City.

The arbitrator accepted the credentials of both sides and declared the proceedings open on February 1, 1930.⁸⁶

I have [etc.]

G. R. TAGGART

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 946 ff.)

⁸⁶ For decision of the Arbitrator, see *Shufeldt Claim*, p. 851.

HAITI

DECISION OF PRESIDENT BORNO NOT TO BECOME A CANDIDATE FOR REELECTION

838.00/2506

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1375

PORT-AU-PRINCE, March 14, 1929.
[Received March 27.]

SIR: I have the honor to make the following report on the question of holding elections in January 1930 for senators and deputies:

In 1928, President Borno, in his message to the Council of State, clearly indicated that elections would be held before the expiration of his term of office. He did not, however, in that message, make a definite statement.

In connection with the above, I desire to invite the Department's attention to my telegram No. 32 of April 13th, 11.00 A. M., 1928, and to the Department's No. 17, April 17th, 11.00 A. M. 1928.¹

President Borno agreed with me, at that time, to hold elections in 1930. Such agreement is not known, however, except to the Department, President Borno, and myself. His message to the Council of State is not definite. Nor had he or I, at the time, realized that the first act of the legislative body would be to elect a president.

The next even year in which elections could be held will be January 10, 1930. Some statement should be issued by President Borno prior to October 10, 1929. The year 1930 is also the year for holding the presidential election and therefore, if elections for the legislative body are held next year, the very first act of that body, when it meets on the first Monday in April 1930, will be to elect a new president. This is pointed out by some Haitians as a very strong reason why elections for senators, and for deputies should not be held at that time. Two tremendous political upheavals in the same year would be decidedly dangerous.

Effect of Elections—The Haitian Government is now operating smoothly with all its machinery running except that part representing the normal legislative body. Many believe that this part of the machinery of government should now be put in place, and point out

¹ Neither printed.

that only six years remain before the expiration of the Treaty of 1915.^{1a} They claim that the legislative body must be placed under tutelage in the same manner as other branches of the government and that six years is but a short time for such work. Furthermore, that if it is impossible for it to function properly, this fact should be determined prior to the expiration of the Treaty, and steps taken to replace it by some body that will function in cooperation with the other government branches. On the other side, it is pointed out that once the normal legislative body is established, there is no legal way of dissolving it, changing it, or even guiding it. That it is entirely independent, and that its powers and functions are such that it might operate in a way to interfere seriously with, if not destroy, the development and progress which have been the result of so many years of hard work on the part of both Americans and Haitians in Haiti. This is indeed a serious thought and makes one approach a recommendation in a most sober frame of mind. If the legislative body should revoke the many laws, or even some of the many laws that have been enacted during the past seven years, or modify them in a way to make them impracticable of operation, such action would strike a dangerous blow at our policy in Haiti. For example, the Service of Contributions, or Internal Revenue System, is founded on a Haitian law. The same is true of the Service Technique of Agriculture,² and if these laws were revoked, or if they were modified in such a way as to eliminate the control that is now given to treaty officials, the result would be disastrous. I am fully aware that agreements have been entered into between the Government of the United States and the Government of Haiti regarding the heads of these two services, but it would be a simple matter so to modify the laws as to make the successful operation of the services impossible.

Courses of Action—Keeping the above thoughts in view, what are the possible courses of action? They would appear to be as follows:

That the United States Government will reach an understanding with the Haitian Government on one of the following plans:—

(a) President Borno to hold elections for the legislative body on

^{1a} For text of treaty signed September 16, 1915, and supplementary agreements and protocols signed in 1916, see *Foreign Relations*, 1916, pp. 328 ff.; for text of additional act signed March 28, 1917, extending the duration of the treaty, see *ibid.*, 1917, p. 807.

² Department of State, Latin American Series No. 5: *Report of the United States Commission on Education in Haiti, October 1, 1930* (Washington, Government Printing Office, 1931), p. 30, states:

"The Service Technique is one of the five activities inaugurated by the American Occupation in pursuance of the treaty arrangements with the Government of Haiti under date of 1915, and known respectively as the Travaux Publics, the Garde d'Haiti, the Service d'Hygiène, the Service Financier, and the Service Technique.

"The warrant for the organization of the Service Technique is contained in the following articles [i. e. articles 1 and 13] of the treaty."

January 10, 1930, and election for the president by that body on the first Monday of April 1930.

(b) Prior to October 10, 1929, for President Borno to issue a decree to the effect that, in view of the year being the year for the presidential election, and for other reasons which he could enumerate, that there will be no national election for senators and deputies on January 10, 1930;

or

(c) That the United States Government will openly inform the Haitian Government that the question is one that rests solely in the hands of the President of Haiti.

(d) That no elections for the legislative body be held next year. That the Council of State when it meets as the National Assembly, on the first Monday of April 1930, to elect a president, consider Article 72 of the Constitution³ with the view to so interpreting it as to extend the term of the present incumbent of the Presidential Office for an additional two years.

Referring to "a" the "pros" and "cons" for this course of action have been fully discussed above, but it would seem to be desirable again to emphasize the fact that once elections are held, and the normal legislative body installed, it will be impossible to return to the present condition. The policy of the United States in Haiti is being watched, not only by people in the United States, but more particularly by foreign European Governments. This policy is, at present, being successfully conducted, and the question naturally arises whether or not at this time, its success can be jeopardized.

Referring to "b". Having solely the welfare of Haiti in mind, the logical conclusion is that the course of action outlined in "b" is correct. There must, however, be considered the opinion toward elections in Haiti that has been developed in the United States. The strength of this sentiment is far better known to the Department than it is to me. Whether it is of such importance as to outweigh the logical conclusion, and to demand the holding of elections regardless of consequences, I do not know. I have, however, been inclined to believe that such was the case, and I have, consequently, placed myself before the Department in favor of holding elections. On the other hand, there is a possibility which must be recognized, and which we must be prepared to meet. That is, that it may be very difficult to obtain President Borno's consent to carry out "a".

Referring to "c". This course of action might be dangerous in as much as the President might not desire to hold elections for many years. On the other hand, as an articulate middle class is developed in Haiti, the pressure from this class would eventually become so strong as to force action on his part.

³ See *Foreign Relations*, 1918, p. 487; and section entitled "Amendments to the Haitian Constitution of 1918", *ibid.*, 1927, vol. III, p. 48.

In this connection the thought arises if it would not be to the advantage of Haiti to have a government with a less cumbersome elected legislative body. In short, by constitutional amendment to eliminate one of its branches. For example, to cut out the house of deputies and have only the fifteen (15) senators. This body would act as a balance wheel to the Executive branch. It would be an elected Council of State. The elections could be more easily supervised . . . In addition, there is the very important question of expense. Fifteen men could be given good salaries while, on the other hand, the maintenance of a legislative body more than twice as large as the Council of State, together with the holding of properly supervised elections every two years means a considerable budgetary increase for a non-productive purpose and burdens a budget that is already carrying a heavy load.

Referring to "d". It is highly probable that sound legal opinions could be given for interpreting Article 72 along the lines indicated and it is also probable that the Council of State would readily carry out any suggestion along this line. Such action, however, would have the effect of only delaying this important question of elections, for, in two years, there would be a presidential election and the pressure for legislative elections probably would be even stronger than it is today. Consequently, we would be faced again with the proposition of having the first elections for the legislative body and the presidential election occur in the same year.

In view of the above, and after the most careful consideration, I have to recommend that the Department instruct me to inform President Borno as follows:

(1) In view of the year 1930 being a year for presidential election the Department is reluctantly forced to the belief that elections for the legislative body should not be held that year and so advises the Haitian Government.

(2) That in giving this advice the Department wishes it understood that it is of the unqualified opinion that legislative elections should be held on January 10, 1932.

(3) That the Department will carefully consider the question of eliminating one branch of the bi-cameral legislative body as outlined in (d) with a view to simplification and reduction of expense. The constitution could be amended in January 1930.

(4) That the above is with the distinct and clear understanding that President Borno will not be a candidate for the Presidency in 1930. Nor will he accept any interpretation by the Council of State (National Assembly) of the Constitution with a view to his retention in office after May 15, 1930.

I have [etc.]

JOHN H. RUSSELL

838.00/2508 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, April 11, 1929—5 p. m.

20. Your despatch March 14.⁴ The Department is of the opinion that Article 72 of the Haitian Constitution clearly renders President Borno ineligible for another election. The Department acquiesced in the constitutional amendments adopted last year upon this understanding.

As stated in Department's 46, July 18, 1927,⁵ and subsequent telegrams, the Department believes that the best interests of Haiti require that one man shall not remain in the presidency more than eight years consecutively. While not unmindful of the remarkable achievements accomplished during President Borno's administration and the splendid spirit of cooperation which the President has manifested toward the American Government and the treaty officials the Department cannot see its way to alter its position in this matter.

Please informally advise President Borno of the Department's views calling attention to the assurance made by Minister Price on September 20, 1927, to the Department on behalf of President Borno⁶ that under no circumstances would President Borno be a candidate in 1930.

STIMSON

838.00/2512 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

[Paraphrase]

PORT-AU-PRINCE, April 15, 1929—noon.

[Received 5:13 p. m.]

26. Your 20, April 11, 5 p. m. I have been assured by President Borno that he will not be a candidate or allow his name to be considered at the election for President in April 1930. In giving me this assurance President Borno requested that it be maintained strictly confidential and I have assured him that it would be carefully guarded until given out by him. President Borno does not expect to make it public until two or three months before the election.

RUSSELL

⁴No. 1383; not printed.⁵*Foreign Relations*, 1927, vol. III, p. 59.⁶Memorandum of conversation of September 20, 1927, not printed.

838.00/2519 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

[Paraphrase]

PORT-AU-PRINCE, April 20, 1929—11 a. m.

[Received 2:40 p. m.]

28. My 26, April 15, noon. I was informed by President Borno that while he acquiesced in the views of the Department regarding his candidacy or in the use of his name for election, nevertheless, he did not personally interpret the Constitution as making him ineligible. I urged him to make a declaration at once that he is not a candidate. The President was almost convinced of the desirability of such action but was afraid that it might injure the interests of his party. The President intimated that he might call legislative election in 1930 or that he might even retire at an early date. The President then suggested that we think over the questions involved and discuss them again. The President desires the opinion of the Department regarding the holding of legislative election in 1930. In this connection I desire again to invite the attention of the Department to the heavy unproductive financial burden which the reestablishment and maintenance of a normal legislative body would involve on an already overtaxed budget with the certainty of lean financial year.

RUSSELL

838.00/2506

The Secretary of State to the High Commissioner in Haiti (Russell)

No. 425

WASHINGTON, August 22, 1929.

SIR: Your strictly confidential despatch No. 1375 of March 14 has been read with interest and has received the most careful consideration.

The Department was most gratified to learn from your telegram of April 15, noon, that President Borno would not be a candidate nor permit his name to be considered for reelection as President in April of next year. While it is noted, as stated by your subsequent communications, that President Borno does not entirely concur in the Department's view of the interpretation to be given to the pertinent provisions of the Haitian Constitution in connection with his possible candidacy, it may be said that the Department is still convinced of the soundness of its views as set forth in its telegram of April 11, 5 p. m., and it also feels that, in the light of those constitutional provisions, it would not be to the best interests of Haiti from the standpoint of policy, for one man to remain in office as President of Haiti for three consecutive terms.

The Department would find itself equally unable to acquiesce in an interpretation of the Haitian Constitution which would extend President Borno's term for an additional two years. It does not believe that Article 72 of the Haitian Constitution could properly be so interpreted and it believes that an attempt so to interpret it would give rise to well justified criticism both in Haiti and abroad.

The Department has felt constrained to express its views regarding the interpretation of the pertinent provisions of the Haitian Constitution with regard to President Borno's present tenure of office. The situation with respect to the calling of congressional elections, however, is somewhat different, as the selection of the date for these elections is not determined by the Haitian Constitution but is a matter left by the Constitution to the discretion of the President. While this Government, in view of its obligations under Article 14 and other pertinent provisions of the Treaty of 1915, must reserve the right to extend at any time to the Haitian Government such friendly counsel and advice as may seem appropriate in connection with this subject, it is not disposed at present, in view of the representations made by President Borno regarding the inadvisability of such action, to insist that he go against his better judgment in ordering general elections next year. It feels that the primary responsibility in this matter rests with the President of Haiti and that any action which he may take must, therefore, be taken upon his responsibility.

With reference to the other recommendations made on the last page of your despatch of March 14 above referred to, the Department is not prepared at this time to state definitely its views regarding the action to be taken by the Haitian Government in 1932, nor regarding the possible elimination of one branch of the Haitian legislative body. It believes that the initiative in this latter proposal should come from the Haitian Government, if the latter desires to propose such an amendment to the Constitution.

I am [etc.]

HENRY L. STIMSON

838.00/2600

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1537

PORT-AU-PRINCE, October 24, 1929.

[Received October 31.]

SIR: I have the honor to report that the day following my return to Haiti, I called upon President Borno and after discussing with him various unimportant Haitian matters I asked him if he would inform me regarding the political situation in Haiti and the coming presidential election. He replied that as he had before stated to Mr. Grummon, the American Chargé d'Affaires, and others, he had informed the members of his party that if they could get together and

select a candidate he would gladly support such candidate, but that if they could not get together, that in the interests of his party he would feel it incumbent upon himself to again run for president.

I told President Borno that I desired to speak to him unofficially and to advise him. I pointed out that I was a strong friend of his and I believed that he had confidence in me; that during the past seven years he had written a brilliant page in the history of Haiti, but that it was my unqualified opinion that if he ran for the Presidency, he would besmirch this excellent record. Furthermore, I said that I felt sure that the United States Government would not recognize him in case of his election. On the other hand, if he waited a short time and then made an announcement to the effect that he would not run for the Presidency and that he thought that two terms, or according to the Constitution one term was sufficient, I was of the opinion that he would receive plaudits on every hand and he would go down in history as the greatest President of Haiti, if not the greatest of Latin-America.

After further discussion along the above line, President Borno finally and definitely assured me that he would not, under any condition, run for the Presidency or accept election. He then said that it was important that his successor be picked at once. He counted Colonel Nemours out of the picture and stated that in his opinion the choice lay between Mr. Sansaricq and Mr. Dejean. After stating the qualifications of each, he said that in his opinion Mr. Dejean would be the better of the two and he said that it was essential that we should support Mr. Dejean. I immediately informed him that as he was well aware, I could not support anyone but that I believed that if he, as leader of his party, selected the candidate and put all of his influence back of him, that his chances of success would be excellent, but that personally I could not forward the political aspirations of any candidate.

President Borno then asked me when he should make the announcement regarding his not running for the Presidency and I told him that in my opinion he could wait for a few weeks in order that it would not appear as if I had influenced him in his decision, and he could then make his announcement. After thinking over the matter for some time, he requested that the time of announcement be left to him; that until that time the matter should be kept in the strictest confidence and that he requested this in order that he might be able better to handle the political situation and secure the election of his candidate.

I have [etc.]

JOHN H. RUSSELL

838.00 Presidential Campaigns/14 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, November 29, 1929—10 a.m.

[Received 5:40 p.m.]

87. In his message to the Council of State on November 27th President Borno stated in part as follows:

"In the meanwhile, gentlemen of the Council of State, I insist, on the eve of the present session in order to dissipate all possible equivocation, upon renewing the declaration that I have constantly made and that I have repeated to those who have interrogated me, namely, that I am not a candidate for the presidential election of April 1930."

It is suggested that the Department congratulate President Borno on the attitude he has taken on the question of the reelection and that the Department's action be made public.

RUSSELL

838.00 Presidential Campaigns/15 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 2, 1929—noon.

[Received 8:03 p. m.]

88. Referring to my telegram No. 87, November 29, 10 a. m. It is my opinion that a public announcement by the Department of President Borno's message, pointing out that he is no longer a candidate and that a new President will be elected in April next, would have a most salutary effect in quieting the political activities of presidential candidates who are now aiding and abetting the striking students.⁸

RUSSELL

838.00 Presidential Campaigns/16 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 2, 1929—7 p. m.

58. Your 87, November 29, 10 a. m. You may inform President Borno that this Government has been much gratified to learn of his definite statement to the Council of State that he will not be a candidate in the approaching elections, because the statement will refute the charges which have persistently been made by unfriendly elements that the President intended, in spite of the provisions of the Haitian Constitution, to bring about his own reelection. The President's action again shows his patriotic devotion to the best interests

⁸ See pp. 175 ff.

of Haiti and the lofty ideals which have inspired his conduct as the head of the Haitian state.

STIMSON

838.00 Presidential Campaigns/19

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1570

PORT-AU-PRINCE, December 3, 1929.

[Received December 17.]

SIR: Referring to the Department's telegram No. 58, of December 2, 1929, 7 P. M., I have the honor to report that I have informed President Borno of its contents. President Borno was greatly pleased and asked me to express his appreciation. He, however, pointed out that he hoped the Department was well aware of his attitude regarding the provisions of the Haitian Constitution and that while he was not a candidate and would not permit of his name being considered, he was firmly of the opinion that he was eligible in accordance with the provisions of the Haitian Constitution "for a first term of six years". I replied that the Department was fully aware of his stand in this matter, although the Department did not agree with him.

I have [etc.]

JOHN H. RUSSELL

STUDENTS' STRIKE AND DECLARATION OF MARTIAL LAW

838.42/72

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1550

PORT-AU-PRINCE, November 12, 1929.

[Received November 19.]

SIR: I have the honor to report that on November 10, 1929, the striking students held a parade and marched through the downtown sections of Port-au-Prince. There was no disorder.

In this connection, President Borno has followed my suggestion and has appointed a committee consisting of M. Delva, Magistral Communal, M. Demosthenes Sam, the father of the leader of the striking students, and M. Charles Rouzier, the father of two of the striking students, as a committee to inquire into and report on the alleged grievances of the students. It is hoped that this committee, while not a committee of arbitration, will materially assist in the bringing about of an end to this unpleasant incident.

General Evans, the Commandant of the Garde d'Haiti, has so far handled the situation with considerable tact and has thereby earned the approbation of both sides. At the beginning, the local police

force was slow in acting. Since then, under General Evans' supervision, this force has done excellent work.

There are rumors that the students are attempting to have other organizations strike in sympathy and these rumors even go so far as to involve the Garde. I have talked with General Evans regarding this matter and he has assured me that up to the present time there are no indications, but that he and his officers are alive to the possibility of such a situation and are taking steps to keep themselves well informed.

I do not believe that the Garde could be seriously involved without information reaching some white officer in time to permit of appropriate action being taken.

I have [etc.]

JOHN H. RUSSELL

838.42/75

The High Commissioner in Haiti (Russell) to the Secretary of State
No. 1562

PORT-AU-PRINCE, November 21, 1929.

[Received December 3.]

SIR: Referring to my despatch No. 1550, of November 12, 1929, I have the honor to report that the committee of Haitian citizens appointed to report on the alleged grievances of the striking students, made its report to President Borno; that after numerous consultations with the committee and with me, President Borno issued an arrete, copy and translation of which is hereto attached. Each department concerned accordingly issued instructions through the press to the striking students to return to their schools to-day, November 21, 1929.

The students of the Ecole Centrale (Damien) were not entirely satisfied with the provisions of the Presidential arrete and after a meeting decided to demand certain changes. This the Government refused to do. Mr. Charles Rouzier, a member of the committee with two sons among the striking students, spoke to the students and informed them that in view of their attitude whereby they had increased their demand, he was entirely out of sympathy with them. Mr. Delva, President of the Communal Commission, and a member of the committee, also spoke to the striking students along the same lines.

This morning President Borno informed me that he intended closing Damien as the students had not returned. I strongly opposed such action and requested that he give the students until Monday, November 25, 1929, to return to their schools, students not returning on that day to be dropped. This he agreed to do. It later appeared that the students of the law school decided to return to their school this afternoon at five o'clock. The students of the Medical School called on

Dr. Kent C. Melhorn, stating that they would return on Monday, November 25, 1929, and in consequence the students of that school are registering to-day.

A report is current that the students of the Ecole Centrale (Damien), will send a committee to see Dr. Freeman⁹ to-day with the intention of making arrangements for the students to return to the school on Monday, November 25, 1929.

In the event that these students do not return on Monday next, I am having Dr. Freeman prepare a plan of reorganization which I have informed President Borno I would present to him. Such plan would contemplate bringing in young men, after examination, from other cities in the rural districts of Haiti and placing them in a dormitory at Damien. At the present time, the Service Technique¹⁰ would probably not be able to provide for more than fifty such students but dormitories could shortly be erected and the number gradually increased. Such action would unquestionably solve the problem and the expense to the Government would be very slight, if any, in view of the fact that there would be the saving in transportation which would be augmented by the October and November bourses.

I have [etc.]

JOHN H. RUSSELL

[Enclosure—Translation]

Arrêté Issued by President Borno, November 18, 1929

In view of Article 75 of the Constitution and Article 7 of the Law of February 25, 1924, relative to the Service Technique of Agriculture;

Considering that for the welfare of the students, it is important to put an end to the difficulties that have arisen at the Ecole Centrale of Agriculture while awaiting the arrêté on regulations enforcing Article 7 of the law of February 25, 1924;

ARRETE:

ARTICLE 1. Sixty-six "bourses" of one hundred seventy-five Gourdes will be distributed each month of the scholastic year to the scholars of the three year course of the Ecole Centrale of Agriculture and six "bourses" of twenty-five Gourdes to the scholars of the preparatory course, having obtained the best reports for the month.

The difference between the budgetary amount and the amount of the "bourses" above indicated, as well as the amount of fines will serve to give special "bourses" for manual work to the students working in the fields and in the shops of Damien.

⁹ Dr. George Freeman, Director of the Service Technique.

¹⁰ See footnote 2, p. 167.

ARTICLE 2. The students can be fined, as a disciplinary measure, but the total of the fines for a month for a student not to exceed one-fifth of the "bourse": an interior regulation, approved by the Secretary of State of Agriculture and of Labor, will fix the scale of disciplinary measures.

ARTICLE 3. At the end of his studies at the Ecole Centrale, the scholar who will obtain the passing mark will receive a diploma of engineer (Agricultural or Industrial Section), delivered by the University of Haiti on the report of the Secretary of State of Agriculture and of Labor.

This diploma will give to him the right to the first employment available in the Agricultural or Industrial Schools.

ARTICLE 4. There is authorized the formation of a committee of students to cooperate with the professors in order to insure good discipline.

ARTICLE 5. There will be authorized in legal form the formation of a general association of students.

ARTICLE 6. The students of Damien and the other schools are released from all disciplinary measures already taken or which would be taken by virtue of school regulations.

All will be, without distinction, permitted again to take up their studies.

This exceptional measure not to be considered as a precedent, in the future all students being held to a strict observance of the laws and regulations of the institution to which they belong.

ARTICLE 7. The present arrete will be published and executed with diligence by the Secretary of State of the Departments of Agriculture and Labor.

Given at the National Palace, Port-au-Prince, the 18th. day of November, 1929, the 126th. year of Independence.

BORNO

838.42/76

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1564

PORT-AU-PRINCE, November 25, 1929.

[Received December 3.]

SIR: I have the honor to report that on Monday last, November 18, 1929, the striking students met at Le Conte Park and after several speeches, a card-board figure of a man was produced and burned. It was intimated that this effigy was supposed to represent Dr. Freeman. A young law student named Sabalat, made a speech to the students but before proceeding with the burning of the effigy, it was noted that he waited for a few moments and I am reliably

informed that he stated that he was waiting for Mr. . . . who had furnished the funds.

In this connection, the Opposition has seized upon the strike of the students in an attempt to make political capital out of it and in addition, it is my firm belief that the Brothers organization has encouraged them. While I have always found the French priests in Haiti to be sympathetic toward the American Intervention, I have on the contrary a well-founded opinion that the Brothers organization is strongly opposed to said Intervention and loses no opportunity to throw obstacles in our way.

I have [etc.]

JOHN H. RUSSELL

838.42/77

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1565

PORT-AU-PRINCE, November 27, 1929.

[Received December 3.]

SIR: Referring to my despatch No. 1564 of November 25, 1929, I have the honor to report that the striking students finally decided not to return to Damien and the medical and law students decided to continue their sympathetic strike. Their forces have also been augmented by the upper classes of two of the Brothers Schools.

On Monday, November 25, 1929, I presented to President Borno the attached memorandum, suggesting that the Damien situation be handled as I have outlined, but President Borno desired to wait several days in order to give Mr. Price, the new Minister of Public Instruction, an opportunity to settle the matter.

There appears in the Opposition paper *L'Haitien* the attached letter¹¹ addressed to the striking students ostensibly by the students of the school, but I am informed that the letter was written by one of the Sisters of the school for the students to sign. Reports that I have received from different sources indicate that the French Brothers are at least secretly assisting the striking students.

I have [etc.]

JOHN H. RUSSELL

[Enclosure]

The American High Commissioner (Russell) to President Borno

MEMORANDUM

Understanding that the striking students of the Ecole Centrale will not, in spite of the Presidential Arrete of November 18, 1920, return to their classes, it is considered appropriate to take proper steps to meet the new situation.

¹¹ Not printed.

The Ecole Centrale was formed primarily for the purpose of training agricultural and industrial teachers to be placed as such in the rural farm schools in the country and in industrial schools in the cities.

In view of the lack of education of the country boys, it was necessary in the beginning to obtain the students for the Ecole Centrale from the cities and a large majority was taken from Port-au-Prince. It was realized by the Service Technique that this student material was not the best inasmuch as it was drawn from a class that was not accustomed to manual labor and was even prejudiced against it. It was thought, however, that this obstacle could temporarily be overcome by the creation of a sufficient incentive, and for this purpose "bourses" were established. The student thereby not only received free tuition from the Government but was paid for going to school.

The method of selection of city boys was designed, however, to be only temporary. The rural farm schools, it was hoped, would eventually furnish the student personnel for the Ecole Centrale. The most intelligent boys in the rural farm schools being sent to secondary schools such as Plaisance, where they would pursue higher grades of studies that would fit them to take up the course at the Ecole Centrale. At the present time such a class is at Plaisance. The boys live at the school and some have successfully completed their first year and are now on their second year of the course.

These boys, coming from the rural districts, are accustomed to work. They have no such prejudices as apparently preclude, at the present time, a majority of the city boys from undertaking courses where they have to engage in manual labor and in whom time alone and a change in the condition of the country can only inculcate a realization of the dignity of labor. Unfortunately, a crisis occurred before the Service Technique had had sufficient time to develop its plan as outlined above, of obtaining its student material for the Ecole Centrale from the rural districts. The situation is now apparently acute and it becomes necessary to take immediate action to meet it. The following plan is, therefore, suggested:

The Service Technique feels confident that within the course of two or three weeks, it could assemble at the Ecole Centrale (Damien) thirty or forty young men taken from the cities and rural districts of Haiti, who are accustomed to work. Work has no repugnance for them and in addition, they have an education sufficient to permit of their pursuing a course at the Ecole Centrale.

As these young men would come from distant sections of the Republic, it would be necessary and desirable to furnish accommodations for them at the school at Damien. Until a suitable dormitory can be erected, the students would be housed in one of the large rooms of the school building, cots and bedding being furnished by the

school. There is at present a restaurant service at Damien which could be easily extended to provide meals at a low cost for these young men. The payment for board, towels, and accessories, could be accomplished either by giving a "bourse" of seventy-five Gourdes per month to each student and deducting from it the amount necessary for board and accessories, or by the Government employing a part of the funds now devoted to "bourses" to the payment of board and lodging for the students. If payment is made in the nature of "bourses", such aid will not be withdrawn so long as the student makes an average passing grade in his scholastic work and gives reasonable satisfaction in his practical work.

The bourses thus applied should be given to all and if necessary slightly increased to permit of students having a certain amount of spending money for the purchase of necessary clothing and other articles.

Since the students will be required to live at the Ecole Centrale, it will no longer be necessary to run the busses between Port-au-Prince and the Ecole Centrale and the money thus saved on transportation can be devoted to the purchase of material for the immediate construction of a temporary dormitory which will comfortably house the students. It is thought that if such material is thus purchased, the industrial section of the student body might, the course of studies being so arranged, devote the afternoons to practical work in assisting in the building of the dormitory.

Students thus entering this government school should be required to sign an obligation to abide by the school regulations.

In order to put the above suggestions into effect, it would only be necessary for the issuance of a Presidential Arrete to the effect that the students of the Ecole Centrale not having availed themselves of the provisions of said arrêté shall be dropped from the rolls of the school. The Service Technique will, of course, have to be instructed to carry out the above outlined suggestions.

If the above meets with approval, it is important to recognize that no publicity should be given to it. The old student body would be dropped. The Service Technique would unostentatiously recruit the new student body and the school would take up its normal function of training teachers before the public was aware that it had resumed its activities.

838.42/74

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1566

PORT-AU-PRINCE, November 29, 1929.

[Received December 2.]

SIR: I have the honor to report that the striking students of the Ecole Centrale and other institutions have not returned to their

schools, and their efforts to spread the strike have resulted in the students of the schools at Jacmel and Gonaives walking out.

The question of striking has become more or less contagious and rumors are constantly reaching me that the efforts of delegates will result in government employees leaving their work. One rumor is that the customs employees of Port-au-Prince will strike to-day. Delegates of the strikers have been very active at Port-au-Prince and it is understood they are even endeavoring to have the servants of the white families strike.

Unquestionably, the strike is being fostered by politicians, the mulatto class who do not desire to see the condition of the peasant improved, and the French Brothers who are opposed to our system of education.

President Borno informed me that he was considering the taking of drastic action against certain politicians whom he believed to be stirring up the people. Among others, he named Mr. . . . , and showed me a letter addressed to him by a government official at Jacmel, in which it was stated that Mr. . . . had written to Jacmel asking why the students had not struck, and that as a result of this communication delegates immediately visited the schools and succeeded in having the students walk out. I strongly advised against such action and in order to prevent it, I sent for Mr. . . . and informed him that I had heard rumors concerning his political activities which resulted in the fomenting of trouble. Mr. . . . strenuously denied the accusation but I took the occasion to speak with him very frankly as I know he is a great talker and would probably tell all of his friends what I had said to him. Among other things I informed him that it was the United States Government's desire, as well as my own, to stabilize conditions in Haiti to such an extent that the Intervention could be withdrawn but that it appeared, at the present time, that the politicians were doing all in their power to retain us here by stirring up trouble and clearly showing that the country was not ready for self-government.

Although endeavors have been made to enlist the sympathy of members of the Garde, up to the present time such efforts have been fruitless, and it is my opinion that no plot of any size within that organization could be formed without white officers of the Garde obtaining information of it.

I have [etc.]

JOHN H. RUSSELL

838.42/79

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1567

PORT-AU-PRINCE, November 30, 1929.

[Received December 5.]

SIR: I have the honor to report that the strike situation in Haiti has not improved during the past few days. As I have already stated to the Department, Mr. Hannibal Price, Secretary of State for Public Instruction and Agriculture, accepted his position in the new Cabinet under the belief that he could settle the strike. During the past few days, he has held numerous conferences with the student committee. He frankly told them that if he could not settle the strike he intended to resign and asked for their cooperation. The students made a number of demands, the principal one being for an increase in the number of bourses. The President's arrete had increased the bourses from sixty-six to seventy-five, but the students demanded that the bourses be increased to one hundred forty-four. President Borno believed this number very excessive, but stated that he was willing in order to meet the desires of the students to increase the bourses to one hundred and to consider a raise to one hundred forty-four for the next scholastic year when the new budget was taken up in February. The student body through its committee could at that time present its requests to the school authorities who would forward them with recommendation, to the government for consideration. After discussing the matter with the Financial Adviser, I agreed to the increase of bourses to one hundred. Knowing that the students are being assisted by the politicians and urged by them to continue the strike, I doubted very much if a settlement could be arrived at, but I felt that it would be wise for the government to make every concession that could be made without the loss of prestige, thus placing the government in a better position before the people and clearly showing the absurdity of the demands.

Mr. Price yesterday informed me that he was certain that the students would accept the Government's proposition, but in view of the injection of politics in the matter I felt quite as certain that they would not. This morning, President Borno stated that while he had not seen Mr. Price, he understood that the students demanded one hundred forty-four bourses, although at the conference of two days ago they had practically agreed to accept one hundred. I told President Borno that I thought the government had gone far enough in the matter and that in order to increase the present number of bourses, it had been necessary to obtain the funds from other items, namely, funds appropriated for the construction of an industrial

school at St. Marc, and that, furthermore, I did not believe that the government could commit itself at this time to any augmentation of bourses for the budget for the year 1930-31. President Borno agreed with me and then said that he would like very much to take drastic action to stop political interference. I replied that I was strongly opposed to the arrest and confinement of any politician for activities in this matter, that such action would only add fuel to the flame; that, of course, government employees who sympathized with the striking students could properly be dismissed.

It appears that, stimulated by the politicians of Port-au-Prince, the students have succeeded in spreading their strike, and schools at Jacmel have been closed, the students walking out on a strike and then parading through the town, followed by a crowd of vagabonds; a few of the students attempted to break into the customs house, but the customs house employees threw them out.

The National schools at Gonaives have gone on a strike, but the Service Technique school at that port has not so far been affected. The students intend, if possible, to engage the entire school system in a strike and in addition to try and extend it to government employees and even obtain the sympathy of the merchants. In Jacmel, the merchants closed up their shops for one day as a sign of their sympathy with the striking students. To-day, about fifty of the rural farm school teachers of southern Haiti will hold a meeting in Port-au-Prince and it is almost certain that they will return to their schools and induce their students to strike. Rumors are current that the customs house employees will walk out but so far the members of that organization have been entirely loyal. It is also understood that an attempt is being made to have the merchants of Port-au-Prince close up their shops for one or two days as a sign of sympathy. Articles in the Opposition press are written with a view to fomenting trouble and urging the strikers to continue the strike. Mr. Chauvet, the owner of the *Nouvelliste*, has stated that the situation was a wonderful one for the Opposition and the newspapers, inasmuch as the Government could not take drastic action against boys or young men and girls, and the situation could be made one to greatly embarrass President Borno's administration. It is unquestionably the policy of the politicians to exploit the children in order to assist in obtaining their own ends. It is even stated that they desire to so embarrass the Government that President Borno will resign and rumors are in constant circulation that the strike will extend to all government branches not excluding the Garde. I doubt very much if the latter organization could be seriously affected as long as it is under the control of white officers, but the present situation clearly demonstrates the impossibility of self-government in Haiti for many years to come. One of the disagreeable features

of the strike is the fact that a Medical Congress on Sanitation meets at the Medical School at Port-au-Prince next week, and has an elaborate program to be carried out. Fear is entertained that the success of this conference will be jeopardized in view of the fact that the medical students are still on a strike. In this connection, it appears that some days ago the medical students voted secretly on the question as to whether or not they would return but that while there was a large majority for a return, those in charge of the ballot boxes succeeded, according to Haitian custom, in changing a majority to a minority.

Power of suggestion in Haiti is particularly strong and consequently, there is a possibility of this matter assuming serious proportions especially at Port-au-Prince. Arrangements have been made to meet such an eventuality. It is hoped, however, that the fires will soon die out, particularly as Christmas is nearing and money is scarce.

Mr. Price, the Secretary of State for Agriculture and Public Instruction, has just informed me that he has learned from the president of the committee of the striking students at Damien, that one of the reasons (obviously inspired by politicians), for their desire to prolong the strike is due to a despatch from Washington, dated November 18, 1929, and published in the local press, that an American commission to investigate into conditions in Haiti¹² will arrive here in January next, and the students believe that if they can throw the educational system of Haiti into a condition of entire disorder they will create, in the minds of such a commission, the idea that they have been badly treated and that the educational system is wrong, etc.

Mr. Price further states that yesterday they agreed to all the concessions made by the Government but demanded that a presidential arrete be issued covering this entire matter before they went back to school. The last paragraph of the Government's proposition to the students is to the effect that immediately upon their returning to school, and taking up their course, the presidential arrete covering the preceding paragraphs of the Government's proposition will be published. The students, however, stated that they had no faith in the Government's declaration and they wanted the arrete published before they went back to school. This, of course, the Government refused to do, but it has met the situation by publishing the entire text of the proposal in all the local papers. It is hoped that this action on the part of the Government will place the students in such a position that they will be forced to accept and return to their school on December 2nd, 1929. If they fail, however, to return to

¹² See pp. 204 ff.

their school on that date, the Government's proposal will stand cancelled.

I have [etc.]

JOHN H. RUSSELL

838.42/80

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1568

PORT-AU-PRINCE, December 2, 1929.

[Received December 5.]

SIR: Referring to my confidential despatch No. 1567, of November 30, 1929, I have the honor to report that in spite of great concessions offered by the Government to the striking students, no settlement has been reached. It appears that on Saturday, November 30th., the student committee failed to keep its appointment with the Minister of Public Instruction and it is obvious that the students therefore do not wish a settlement.

The strike of the students has rapidly spread throughout the country and the entire faculty at Damien, following the leadership of a Mr. Nicolas, a member of the Haitian faculty and a graduate of an American school, has walked out. At Port-au-Prince, the entire Service Technique is practically on a strike, including garage and chauffeur employees.

The student committees have been trying to obtain a sympathetic strike on the part of the other Government services and such a strike was scheduled for this morning in the custom house, the Financial Adviser's office, Public Works, and Public Health, but, fortunately, conditions in those organizations are normal and I am reliably informed that the strikers were met with a curt reply when they approached the members of these organizations. The striking students are still endeavoring to obtain the cooperation of the other government departments. It is now understood that they hope to be able to induce them to strike on Wednesday next. Jacmel has, as the Department knows, always been a hot-bed in the South and last night there was a manifestation at that place. . . .

This morning, President Borno informed me that he thought drastic action was necessary and that he desired to arrest some twenty of the political leaders and put them in jail incommunicado. He stated that their papers could be gone through and he felt certain evidence could be obtained of their plotting against the Government. I strongly objected and informed President Borno that my policy was to allow those to strike who wanted to strike; to allow no picketing outside of government offices, to suppress promptly any disorder, and not to take back any strike leaders; that I felt that starvation alone would

soon bring them to terms and that all the Treaty Officials other than those of the Service Technique and the Garde, had informed me that their organizations could carry on in spite of a strike. President Borno stated that it was his desire to avoid blood-shed and I told him that I thought his method was just the one to lead to it; that it was my strong desire to avoid blood-shed, and that I had strong hopes that if the Garde did not become involved, that drastic action would not be necessary. President Borno replied that he had information that some of those interested in the strike had stated that they were willing to go to any extreme to attain their ends.

I have given instructions to have the Marine organization stationed here show itself more than it has done in the past. It has been the policy not to pass through the streets, for example, with our machine guns, but in taking them to the range for practice to take them in trucks more or less concealed, but now they will march through the streets and other means will be taken to let the people see a show of force, with the hopes that it may have a beneficial effect.

I have [etc.]

JOHN H. RUSSELL

888.42/81

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1569

PORT-AU-PRINCE, December 3, 1929.

[Received December 7.]

SIR: In order that the Department may obtain a more vivid picture of the actual situation, I have the honor to attach hereto copies of all reports for to-day from the Brigade Commander and the Treaty Officials,¹³ which are now made to me daily by these officials. Verbal reports are received at other times during the day.

It appears that the strike, urged on by the politicians of the Opposition and the newspapers, is rapidly spreading throughout Haiti. It is almost certain that the other Government organizations besides the Service Technique will be affected. If the loyalty of the Garde can be maintained and no untoward incidents occur, it is hoped that the force of the strike will gradually diminish and die. If, on the other hand, some untoward incident should occur, added fuel will be thrown on the flame and it would become more serious. For this reason, it is essential that great tact and thought be given to every move made by the Government. . . . President Borno is being besieged by telegrams and notes from Prefects and Magistrars throughout the country that exaggerate the situation and his Council of State is asking him what drastic action he intends taking to put an end to this situation.

I have [etc.]

JOHN H. RUSSELL

¹³ Not printed.

888.5045/1 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 3, 1929—8 p. m.

[Received December 4—12:15 a. m.]

89. Strike has rapidly spread throughout the country and all ports are involved. The situation has become serious and the progress and business of Haiti may be greatly affected. Many Haitian politicians and business men are aligning themselves on the side of the strikers. Strong efforts are being made to induce all treaty departments to strike. Highly probable that some will join strikers in a few days. Loyalty of the garde very questionable. Any untoward incident might bring on a very serious situation with bloodshed and loss of life. Many treaty officials with their families are stationed at ports or remote sections relying entirely on the protection of the garde. With the present greatly reduced strength of the marine brigade it will be impossible to protect all of them in the event of disloyalty of the garde.

An increase of the strength of the brigade would permit such and the moral effect would most probably prevent disloyalty of the garde and prevent bloodshed for which some of the hotter headed Haitians are obviously desirous.

It is therefore recommended that the strength of the brigade be immediately increased by 500 until after the inauguration of the new President in 1930.

RUSSELL

888.5045/3 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 4, 1929—noon.

[Received 6:15 p. m.]

90. This morning custom house employee became insolent and threatened Mr. Johnson, collector of customs. Johnson was finally forced in self-defense to push him aside with his open hand. All the Haitian employees then left the customs building, throwing typewriters and ink wells on the floor and breaking furniture. Johnson was hit on the arm with a club in an endeavor to prevent his telephoning. Mr. Haag, an American assistant, was also struck with an iron bar. Neither seriously hurt. Employees in the Financial Adviser's office have walked out with the exception of contributions and control. Disorderly crowd gathered about the Ministry building and entered the Financial Adviser's office but did not threaten

Americans. Conditions now quiet. I have held the marines in barracks but I am now of the opinion that drastic action is necessary. I shall have the marines take charge of the city and place it under martial law which is still in force but has not been operative for some years.

I shall also have the brigade commander issue a proclamation calling attention of the inhabitants to that fact as well as to the proclamation of 1921 regarding the press¹⁴ and I shall require all the inhabitants to remain in their homes from 9 p.m. until daylight, this until order is completely restored and government offices are functioning properly.

Report has just reached me that two ships at Aux Cayes cannot be loaded in view of the strike of laborers.

RUSSELL

838.00/2613 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 4, 1929—2 p. m.

[Received 10:20 p. m.]

91. The following proclamation will be issued this afternoon by the brigade:¹⁵

“To All Inhabitants:

The United States forces in Haiti are engaged in aiding and supporting the Constitutional Government of Haiti and are your friends. By their efforts and those of the Garde of Haiti, peace and tranquility have been established throughout your land for many years, permitting you to conduct your business and earn an honest living.

Certain agitators are now endeavoring to foment trouble. It, therefore, becomes necessary to again place in vigor the power and authority of Martial Law, which has during the past few years been inoperative.

You are also informed that articles or speeches of an incendiary nature or those that reflect adversely upon the United States Forces in Haiti or tend to stir up agitation against the United States Officials who are aiding and supporting the Constitutional Government of Haiti, are prohibited and offenses against this order will be brought to trial before a Military Tribunal.

From the promulgation of this Proclamation, all inhabitants of the cities of Port-au-Prince and Cape Haitien will remain in their houses from 9 o'clock P. M. until day-light.

RUSSELL

¹⁴ *Foreign Relations, 1922*, vol. II, p. 558.

¹⁵ Text of proclamation corrected to conform with English text printed on a poster transmitted by the High Commissioner in his despatch No. 1575, December 16, 1929 (838.5045/33).

838.5045/2 : Telegram

The Vice Consul at Cape Haitien (Wood) to the Secretary of State

CAPE HAITIEN [undated].

[Received December 4, 1929—3:35 p. m.]

Demonstration sympathetic with disturbance in Port-au-Prince has developed here, mob numbering about one thousand parading. No violence as yet. May be necessary to declare martial law.

Wood

838.00/2615a : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 4, 1929—5 p. m.

59. The Department is extremely reluctant to increase the strength of the Marine Brigade unless such action is absolutely necessary. It feels that the sending of additional forces would give rise to sensational reports regarding the Haitian situation and would be given an unfortunate interpretation in view of the approaching election. It would much prefer that Americans in places where protection cannot be afforded should be withdrawn to Port-au-Prince or Cape Haitien if they are in imminent personal danger. The Department is prepared to ask the Navy Department to send marines to Guantanamo to be held in readiness in case of emergency, if you consider such action necessary. Please cable your views in full and keep the Department informed in detail regarding the situation.

STIMSON

838.5045/4 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 4, 1929—8 p. m.

60. Your 90 December 4 noon. The Department does not desire you to take such measures as you describe unless absolutely necessary for the protection of lives. The situation as you have described it does not seem to make such measures necessary.

STIMSON

838.00/2618 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 5, 1929—noon.

[Received 10:00 p.m.]

92. Department's 59, December 4, 5 p.m., and 60, December 4, 8 p.m. The situation in Haiti is very serious. Had I not taken action I did

yesterday the local situation would have gotten out of hand and there would have been serious loss of life among both Haitians and Americans. Prompt action on my part has had an excellent effect in quieting the situation here. I have spent practically 12 years in Haiti, during a period of which there was an uprising with five or six thousand men in the [several?] attacks on the city. I am consequently not carried away by any small demonstration and did not act in this particular case until the necessity warranted extreme measures.

My request for a small reinforcement was for the purpose of stationing 50 men at ports where there are customhouses and hospitals and public offices all established pursuant to treaty obligations and under the direction of Americans who have their families with them. At Aux Cayes the present situation has this morning become grave. There are 25 Americans at Aux Cayes, 14 are women and children. Communication by telephone has just reached me that the situation there is rapidly getting out of hand. The brigade commander has sent planes to drop bombs in the harbor with the hope of overaweing the people but I have just received word that it has had only a momentary effect.

The garde is [organized?] as a regiment of the brigade and only in certain specific instances will marines appear. The moral support of the marines and, where absolutely necessary, their physical support is essential to stiffen up the garde. Physical contacts and all arrests where possible are to be made by the garde backed up by the brigade. This, in order to maintain the prestige of the garde. Here at Port-au-Prince since the marines came on the scene the garde's action has been entirely different. The effective strength of the brigade here is such as not to permit of the distribution of the forces at the ports under present conditions. The brigade commander is however sending 40 marines to Aux Cayes by truck but it will take them at least 8 hours to make the journey. Conditions such as exist at Aux Cayes may at any moment break out at Jacmel, Miragoane, Gonaives or other ports. I am of the belief that with 50 men stationed at the ports, stiffening the garde, loss of life and property may be avoided. Otherwise it may become more grave with loss of life and business conditions paralyzed. All treaty organizations and National Bank of Haiti have joined in the [apparent omission].

In view of the above I have to again recommend that the request I made in my 89, December 3, 8 p. m., receive the Department's immediate approval.

RUSSELL

838.5045/7 : Telegram

The Vice Consul at Cape Haitien (Wood) to the Secretary of State

CAPE HAITIEN, December 5, 1929—3 p. m.

[Received 6 p. m.]

Cape Haitien district quiet under martial law. All public demonstrations broken up without casualties.

WOOD

838.00/2613 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 5, 1929—3 p. m.

61. Your 91, December 4, 2 p. m. Please withhold proclamation. I am sending you a long personal message with my views later this afternoon.

RUSSELL

838.00/2613 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 5, 1929—6 p. m.

62. I have personally reviewed the situation shown in your cables numbered 89, 90, and 91.¹⁶ I fully appreciate the delicate and heavy responsibility which rests upon you and I have asked the Navy to place, subject to your order, the *Galveston* which is now at Guantanamo, believing that in case of serious trouble her presence in Haitian waters would have a strong moral and reassuring effect. Although she has on board fifty marines I trust it will be unnecessary to land them.

Having said that you will be supported in your final responsibility of protecting life, I nevertheless think it proper to say that from this distance it does not seem that the situation requires or will be best served by a display of marine forces in the outlying portions of the islands. It seems to me that the nub of your situation rests in the question of the loyalty of the native constabulary and I hope you will be careful not to discourage that loyalty by an appearance of distrust or of supplanting it with white forces. Under white officers such as you have the general loyalty of black troops is usually proven against even local dissatisfaction or mutiny. In whatever manner you ultimately decide upon I trust you will give the loyalty of your constabulary a thorough and fair test. Even if you deem it necessary to use more actively than hitherto the present force of marines, I seriously question the wisdom of the proclamation yesterday as to martial law. To me it seems that the benefit of such a proclamation

¹⁶ *Ante*, pp. 188, 189.

in an illiterate population like Haiti is outweighed by the unfortunate effect produced in the United States, particularly as you state that martial law was already in force. I therefore sincerely hope that you may soon be able to greatly modify or withdraw that proclamation. In so doing I suggest that you make it clear that the present issue is not between the people of Haiti and the forces of the United States but between agitators against the lawfully constituted authority of Haiti supported by the United States.

In summary I sincerely hope that you may find it possible to protect life by withdrawal of Americans in exposed places rather than by extending the use of the present marine forces or calling for additional marines. The responsibility is, however, upon you and will be respected.

I suggest that for greater speed you report by cable instead of radio.

STIMSON

838.00/2617 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 5, 1929—6 p. m.

[Received 9:46 p. m.]

93. Department's 61, December 5, 3 p. m. Events forced me to have proclamation issued afternoon December 4th. Effect excellent on Haitians and Americans.

RUSSELL

838.00/2620a : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 6, 1929—11 a. m.

63. While temporary detention of persons fomenting disorder may of course prove necessary the Department would not approve the trial of Haitians for serious offenses by military courts or the imposition of heavy sentences except in extreme cases and after the Department had had an opportunity to consider the facts and approve in advance the institution of proceedings.

STIMSON

838.00/2618 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 6, 1929—noon.

64. Your 92, December 5, noon. Orders have been given for immediate despatch of five hundred Marines to Haiti.

STIMSON

838.5045/10: Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 6, 1929—8 p. m.

[Received December 7 (?)—1:45 p. m.]

95. The situation this morning was: At Aux Cayes, the demonstrations by planes resulting [*resulted*] yesterday afternoon in calming the people and with the arrival of the detachment of marines at 10 o'clock last night the situation quickly cleared up. The American women and children who had taken refuge in the garde compound on the edge of the town returned to their homes and order was immediately restored. The telephone line between Port-au-Prince and Aux Cayes which had been cut near Aux Cayes is now in operation. The effect of the measures taken by me has spread throughout the country and conditions are stabilizing. The Public Works Service which was scheduled to strike yesterday decided not to strike, and, since law and order at Port-au-Prince has been established, men are applying in excess of positions at the customhouse which will function normally today. It was maintained open yesterday with 10 loyal employees and American volunteers. Yesterday a telegram from the United Press was received from Washington by the local press here informing it of the Department's congratulatory letter to President Borno¹⁷ and a number of newspapers of Port-au-Prince immediately issued notices quoting the telegram. The receipt of this information in Haiti has had an excellent effect in assisting in quieting the politicians who, I shortly expect, will begin fighting among themselves instead of uniting as they are at the present time.

Members of the local press yesterday stated that they had no feeling or complaint against the United States forces and furthermore that they realized that one thing had led to another and the strike had rapidly developed a situation the gravity of which had not been foreseen.

In view of the present condition and the placing of the *Galveston* at my disposal I feel that an increase of strength of the brigade is not necessary for the present.

It is my intention to have the marines withdrawn from Aux Cayes immediately conditions are stabilized, and I have instructed the brigade commander accordingly.

The Department may feel assured that I will make every effort to maintain order and return as rapidly as conditions permit to the state which has existed during the past seven years.

RUSSELL

¹⁷ See telegram No. 58, December 2, 1929, 7 p. m., to the High Commissioner in Haiti, p. 174.

838.5045/6 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 6, 1929—midnight.

[Received December 7—2:27 a. m.]

95 [96?]. Magistrate at Cayes reported whole countryside in revolt. Information was received by garde commander at Cayes that a mob was moving on the city. Garde guarded city while marines were at garde barracks at entrance to town. Marines sent by patrol with garde commander out to meet advancing mob about two hundred yards from barracks. Leaders of mob of about fifteen hundred demanded to enter city to assist strikers. They were told strikers were back at work, but as they would not believe Captain Swink, the leaders were allowed to pass through the line, enter town, and confer with strike leaders. They returned in half an hour and demanded the release of three prisoners otherwise they should advance on the town. Their request being refused they advanced down road toward patrol and through cane fields on each side. Patrol of 20 marines fired over their heads and mob halted but after half an hour again advanced. Patrol fired again over mob; but when mob closed in a rush and leader was in the midst of patrol, the patrol fired into the mob killing 5 and wounding 20. All reports to the effect that patrol exercised great forbearance as it was being constantly stoned and mob was in an ugly mood. Effective fire was not employed until necessary in self-defense. Mob dispersed and all now quiet at Cayes. I arranged for evacuation women and children tomorrow by the steamer.

At Jacmel papers have been seized showing that many automatic pistols had come into the country from Guatemala. Rumored that country people around Jacmel are in revolt. Garde commander has sent 50 men from the reserve company at Port-au-Prince to Jacmel. This leaves about 25 garde reserves at Port-au-Prince. Have requested that *Galveston* proceed immediately to Jacmel. Telephone line from Gobedere to Jacmel cut as well as line from Gonaives to Grosmorne. It is apparent that the opposition press and the agitators have inflamed the country. As the situation is not clearing up as rapidly as I had hoped I suggest that the reinforcements be sent.

RUSSELL

838.00/2624 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 7, 1929—11 a. m.

[Received 4:08 p. m.]

97. Department's 63, December 6, 11 a. m. Verbal order to the brigade commander has been issued for the strict compliance with the instructions contained in the above-mentioned telegram.

RUSSELL

838.5045/12 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 7, 1929—6 p. m.

[Received 11:00 p. m.]

98. A crowd of about 2,000 this morning surrounded the outpost building at Chantel yelling "down with Borno, down with Freeman." The garde assisted by the French priest held the crowd off. Chantel is in the Aux Cayes district and has a garde outpost of 3 men.

At Torbek near Aux Cayes where there is another Aux Cayes outpost a crowd estimated at 1,000 gathered this morning threatening to kill the corporal of the garde who had telephoned into Aux Cayes the approach of the mob that descended on Aux Cayes yesterday afternoon. The crowd has been shouting "down with Borno, down with Freeman" but so far has not attacked the garde. Directions have been issued to call in the above two small outposts to Aux Cayes in order to prevent rushing the outpost at night and the capture of rifles and ammunition. Telephone line between Aux Cayes and Port-a-Piment is being destroyed. American women and children at Aux Cayes embarked on the steamer *Martinique*, Columbian line, for Port-au-Prince. The *Martinique* will stop at Jeremie and pick up about 5 American women and children at that port.

Reports that a parade and demonstration at Petit Goave will be held tomorrow afternoon. The commandant of the garde is taking steps to handle the matter.

There is well-founded rumor that this agitation throughout the country was started by politicians with a desire to disrupt the Government and force the resignation of President Borno.

RUSSELL

838.5045/13 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 8, 1929—5 p. m.

[Received 8 p. m.]

100. All quiet throughout Haiti. *Galveston* at Jacmel this morning. Planned demonstration in the custom house Cape Haitien, similar to that of Wednesday at Port-au-Prince, was staged for yesterday but plan frustrated by the arrest of leader. Upon arrival of reinforcements it is my intention to increase force Cape Haitien by 100 and to maintain remainder of force intact just outside of Port-au-Prince [in?] the old camping ground at Hasco which has been kindly offered by Mr. Elliott. No further marines sent to outlying parts of districts unless absolutely necessary to support garde. Upon arrival of reinforcements if Port-au-Prince and Cape Haitien

still quiet, I shall remove restrictions regarding remaining in houses after 9 p. m.

RUSSELL

838.5045/14 : Telegram

The Vice Consul at Cape Haitien (Wood) to the Secretary of State

CAPE HAITIEN, December 9, 1929—11 a. m.

[Received 12:55 p. m.]

Quiet has been restored. No appearance ill nature. Movement supported by politicians and agriculturist[s] affected by the enforcements of customs regulations connected with alcohol, coffee and tobacco. Loyalty Garde d'Haiti unquestioned. No hostility particularly against Americans noted.

WOOD

838.5045/16 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 9, 1929—11 a. m.

[Received December 10—10 a. m.]

102. All quiet. Reports from Cape Haitien that the declaration of the Department regarding President Borno's not being a candidate for the Presidency¹⁸ had a most telling effect on the situation in the North. The garde commander of the North reports that he is of the conviction that it has averted bloodshed. Telephone communication has been restored. Endeavoring to have a few prominent Haitians of Aux Cayes who have influence with the country people go out into the country with a view to quieting them. A majority of the third and fourth year medical students have expressed a desire to return to the school today but they still fear to do so on account of threats of violence from other students. The Public Health Officer is hopeful by the end of this week of being able to obtain a majority of the students at the school. Many school children at Cape Haitien returned to school except the Service Technique School. I am using every endeavor to place the Service Technique educational system again in operation.

Rumors of the importation of arms and ammunition and steps have been taken to prevent the same. American women and children from Aux Cayes and Jeremie have arrived at Port-au-Prince. The Collector of Customs Saint Marc reports that agitators from Port-au-Prince and Jacmel were responsible for stirring up the country

¹⁸ See telegram No. 58, December 2, 7 p. m., to the High Commissioner in Haiti, p. 174.

people and that it is perfectly clear that this was a planned affair, not only planned, but directed.

Agitators have been working in the Cul-de-Sac¹⁹ endeavoring to stir up the people against the Government for the imposition of the alcohol and tobacco taxes. The situation in that section is being carefully watched.

RUSSELL

838.00/2627 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 9, 1929—noon.

67. Your December 6, 8 p. m. states that in view of the then conditions and the placing of the *Galveston* at your disposal you felt that an increase in strength of brigade was not necessary for the present. The Department realizes of course that the situation was changed by the events at Aux Cayes reported in your telegram of December sixth, midnight, but in view of your statement in your telegram of December eighth, 5 p. m. that all is quiet throughout Haiti, I desire to inquire whether you feel it necessary to have the additional Marines, especially as you say that with the exception of one hundred to be sent to Cape Haitien the rest will be maintained at their old camping ground outside Port au Prince.

The President feels that it would immensely help the situation so far as public opinion in this country is concerned if the Marines now on the *Wright* could be diverted before arriving at Port au Prince on the ground that this reinforcement is no longer necessary. Even if this is not possible it would be of great help if they should not be landed. This would not only diminish criticism here but would reflect credit on the efficacy of the steps you have already taken. Please cable immediately, first, whether the orders for the Marines to go to Haiti can be countermanded, and second, whether in case this can not be done, present conditions have not sufficiently improved so that only a portion of the Marines may be disembarked and the remainder sent on to Guantanamo.

STIMSON

838.5045/20 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 9, 1929—7 p. m.

68. We feel strongly that landing of Marines is to be avoided if possible and that it would very seriously adversely affect our relations with all Latin America. Therefore the *Wright* instructed to

¹⁹ The Cul-de-Sac Plain.

wait twenty-five miles off Port au Prince morning December 10 pending orders. If reply to our 67 is received from you we will issue orders here. If actual violence going on and situation decidedly worse you can give orders direct to the *Wright*.

STIMSON

838.5045/18 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 9, 1929—midnight.

[Received December 10th—6:30 a. m.]

103. The following letter and enclosure have been received from President Borno:

“Mr. High Commissioner:

I enclose a copy of the proclamation which I have addressed to the Haitian people in regard to the recent events.²⁰ I wish to profit by this occasion to congratulate you again on the measures taken by you in establishing martial law. It was the only means of guaranteeing public security in the face of the imminent and grave dangers caused by the passionate enemies of the regime of cooperation which no one can ignore has given the most happy results for the Republic of Haiti.

PROCLAMATION

Borno, President, Republic of Haiti, to the Haitian people:

Fellow citizens: Once more the ambitious impenitents have accomplished their criminal designs. They knew perfectly well the Government of the United States was obliged by formal treaty to maintain public order in Haiti. They knew perfectly well the American military occupation has, according to international law, its sole and only justification in assuring the loyal execution of that contractual obligation. They knew this. But they foolishly imagined the Government of the United States would betray its trust and favor their plans for disorder, their dreams of anarchy. Foolishly, they imagined the American forces of occupation would become accomplices of their machinations. Thus, with the fixed intention of embarrassing and annihilating the Constitutional Government of the Republic in order to place it in a position where it would be forced to resign, they have fomented throughout the country a political agitation, camouflaged under the pretended student demands. Exploiting by its equivocal maneuvers the ardent and generous sentiments of youth, they have succeeded in casting into the streets students, the young boys and young girls of the schools, thus disorganizing education, thus compromising the future of this entire body of young people and children.

In the midst of this student turbulence the Government has maintained the greatest calm and manifested the highest sentiments of benevolence.

Always dominated by consideration for the public welfare and regard for the interests of the young people, it has on two occasions accorded to the students the greatest concessions; but each time the leaders of the underground politics have raised absurd difficulties and placed obstacles in the way of the good intentions of the students.

And in the meantime the secret agents of those politicians, employed in the public services, in the customs, in the internal revenue service, have actively instigated demands, in appearance purely administrative, in order to bring about a desertion of the offices and the complete paralyzation of the fiscal services of the State.

²⁰ Corrections in proclamation based on text in Department of State, Latin American Series No. 3: *Eighth Annual Report of the American High Commissioner at Port au Prince, Haiti, to the Secretary of State, 1929* (Washington, Government Printing Office, 1930), p. 12.

It was in the face of the extension of these insidious acts, confronted by the partial realization of their plans, confronted by the alarming attitude of the elements of disorder who audaciously began to take possession of the streets of Port-au-Prince, Cape Haitien, Aux Cayes, Jacmel, Gonaives, that the chief of the American forces, as equally responsible for the public safety as the Haitian Government itself, intervened and put into effect martial law.

It is clearly evident that it is the policy [*political opposition*] which provoked and justified this measure for the defense of public order, which has been dangerously menaced.

For the energetic measures of repression which may thereby [follow], it is therefore the leaders of the opposition who must, before the nation and history, assume the grave responsibility.

In any case and under whatever circumstances, the Government will fulfill to the end its imperious duty of safeguarding public [peace].

It has the right to count, and it firmly counts on the sincere aid of every good citizen."

RUSSELL

838.5045/17 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 9, 1929—11 p. m.

[Received December 10—6:30 a. m.]

104. Situation here problematical. Cities now controlled and it is believed this condition can be maintained. The next two weeks should indicate how far agitation has extended to the interior and whether or not rumor regarding importation of arms is true.

With present strength able to control situation unless unrest should develop in the interior. It is therefore recommended that *Wright* be diverted and marines held at Guantanamo with transportation subject to my orders.

It is further suggested that *Galveston* remain in Haitian waters subject to my orders.

In view of the small effective strength of the force now in Haiti I am requesting the Marine Corps to immediately increase the defensive strength of the first brigade by one hundred Thompson sub machine guns.

RUSSELL

838.5045/19 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 10, 1929—11 a. m.

[Received 6 p. m.]

106. All quiet. Reports indicate conditions throughout Haiti steadily improving.

No present evidence of unrest in central Haiti. Prominent Haitians at Cape Haitien state that they welcome a firm orderly government whether administered by Americans or their own Government.

Reassuring statements by garde are disseminated quieting the country people. Have requested *Galveston* to visit Aux Cayes, Jeremie,

and Miragoane then to Port-au-Prince for fresh provisions if so desired. If conditions continue to improve as now seems highly probable, I shall release *Galveston* on arrival Port-au-Prince as desired by this week. Three-fourths of the school children at Cape Haitien have returned to school.

Many of the lawyers of Port-au-Prince have signed a petition which they presented to court of first instance here. The signed statement reads as follows :

“The Association of the Attorneys of the Bar of Port-au-Prince.

In view of the deployment of the armed forces which has thrown into agitation the city of Port-au-Prince;

Considering that this brutal intervention in the presence of the pacific and justified claims of the Haitian people is of a nature to disturb its serenity;

In consideration of the fact that machine guns are trained on the Palace of Justice from the barracks;

Believing in addition that the state of agitation existing in the Republic cannot permit it to live in lawfulness and peace;

Has decided until a new order to abstain from pleading before the courts. Port-au-Prince, December 5, 1929. Signed Lespinasse, Stenio Vincent, Pierre Hudicourt, Morel, T. Laleau.”

Every one of the points brought out in the above statement is directly contrary to facts and farcical. One of the signers was Minister of the Interior under Guillaume Sam when 167 political prisoners were murdered in the prison.

RUSSELL

838.5045/22 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 12, 1929—2 p. m.

[Received 11 : 20 p. m.]

107. All quiet. Garde department commander of the South reports that prominent Haitian citizens at Aux Cayes with whom he has talked were unanimous that the action of the marines in dispersing the mob saved the city from loot. He further reports that people in the country around Aux Cayes have been stirred up by agitators of Port-au-Prince with agents at Aux Cayes. After starting the strike these agitators worked with the country people, using the tax on alcohol and tobacco to incite the people, into whose minds also came the definite idea of looting Aux Cayes. It is hoped that the people of hereby [*nearby?*] section have been taught a lesson but it is too early to state definitely. Reporting officer also states that dislike of the intervention is confined to the higher classes who feel that they may gain by our leaving. To country people the blacks like us [*sic*]. These agitators for purposes of their own started a strike and unleashed a mob at Aux Cayes with the drastic result.

Brigade commander reports to me that reports from northern Haiti indicate agitators have been working with the country people for the past two months telling them that the entire country was in revolt, the Government about to fall as there were too few Americans in Haiti to prevent it and that they had orders not to take drastic action.

Commanding officer of marines at Cape Haitien has requested an increase of his strength by at least one officer and 50 enlisted. Brigade commander states he cannot spare men from Port-au-Prince.

From reports received from other sources I feel that the Haitian reporting the situation to the brigade commander has exaggerated it and that reenforcement at Cape Haitien is not necessary at present. The garde and marine force now at Cape Haitien is able to handle any situation that might arise at that place. My only concern is about the country in the neighborhood of Fort Liberty and Letrou. I am having the brigade commander send his chief of staff to Cape Haitien tomorrow by plane to investigate conditions.

Chief of police, Port-au-Prince, has obtained information that since the publication of the Department's action in congratulating President Borno the political agitators are now striving to work up a hatred of the intervention. They do not intend, if they can help it, to allow any bloodshed and their propaganda will be among the peasants in the South. . . .

RUSSELL

838.5045/25 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 13, 1929—2 p. m.

[Received 8 : 50 p. m.]

113. All quiet. Damien Law and Medical School students still on strike; special efforts have been made to induce medical students to return to their school but so far without effect. Continuing efforts to start rural farm schools and gradually all schools under the Service Technique.

If conditions remain quiet I shall direct brigade commander to remove on December 16th the restriction regarding circulation after 9 p. m.

RUSSELL

838.5045/28 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 14, 1929—noon.

[Received 3 : 50 p. m.]

115. All quiet. Commanding officer marines at Cape Haitien, garde department commander at Cape Haitien and brigade com-

mander desire 50 more marines at Cape Haitien for stabilizing effect and to permit operations of garde in the country if necessity requires.

After obtaining my own information regarding conditions in the north outside Cape Haitien and a careful estimate of the situation, I do not feel that an increase of the force of marines at Cape Haitien is now necessary.

The garde in the North is reported as being absolutely loyal and every indication is that the country in the North is quiet. The force at Cape Haitien is sufficient to control that city. I have therefore decided not to reenforce the marines at that port. The garde however will be reenforced by 25 men taken from other posts.

RUSSELL

838.5045/27 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 15, 1929—2 p. m.

[Received 7:40 p. m.]

116. All quiet. *Galveston* arrived Port-au-Prince this morning. I have requested *Galveston* to sail afternoon 16th to arrive [Gonaives?] morning of 17th, sail from Gonaives noon 17th when she will be released from duty in Haitian waters.

RUSSELL

838.5045/27 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

[Extract]

PORT-AU-PRINCE, December 16, 1929—1 p. m.

[Received 11:55 p. m.]

117. All quiet. Situation much improved. Policing in Port-au-Prince and Cape Haitien in entire charge of garde with exception of one patrol at Port-au-Prince. Restriction on circulation at night will be entirely removed today. Students Damien Medical School and Law School still on strike.

RUSSELL

838.42/88 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 18, 1929—1 p. m.

[Received 2:50 p. m.]

120. All quiet. Educational system of Service Technique being reestablished but progress very slow.

RUSSELL

838.5045/35 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, December 21, 1929—noon.

[Received 4:35 p. m.]

123. All quiet; Damien medical and law students still on strike. Director General of Public Health Service has recommended that the medical school be closed until October 1930. Only a few rural farm and industrial schools operating but expect number will be largely increased after the Christmas holidays.

The garde, which has been operating as a regiment of the brigade, has this date been returned to its independent function. This action places the military situation in Haiti in the condition it was in prior to December 4, 1929. The opposition press are still publishing their papers with the usual articles.

RUSSELL

838.5045/39 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 31, 1929—6 p. m.

79. I am highly gratified that it has been possible to deal with the recent disturbances in Haiti with so little show of force and no more bloodshed. I feel that prompt and firm action was necessary and right in your difficult situation where it would have been entirely easy to have made irretrievable mistakes.

STIMSON

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

838.00 Commission of Investigation/1

President Hoover to the Secretary of State

WASHINGTON, September 25, 1929.

DEAR MR. SECRETARY: The Haiti situation which you mentioned to me has flowed into the White House doors, as the accompanying correspondence will show.²¹

From this correspondence, but not related to anything it says, I am wondering whether we would not be well advised if we were to set up a commission of three or five highly important citizens to go ahead and to reexamine the whole of our policies in connection with that country; this not to be in the nature of a detailed investigation of our conduct, but with view to determining what our course shall be for the future.

²¹ Not printed.

I think we shall have a large amount of congressional attack and detailed complaint such as represented in this correspondence coming forward during the next few months, and I am myself in great doubt as to whether this Administration wants to pledge itself to undertake to take on the indefinite policies of the last Administration in connection with this island. In any event, we would greatly clarify the entire atmosphere by some such action as this.

Yours faithfully,

HERBERT HOOVER

838.00 Commission of Investigation/2

The Secretary of State to President Hoover

WASHINGTON, September 30, 1929.

MY DEAR MR. PRESIDENT: I have received your letter of September 25 regarding the situation in Haiti. As you know, I have been giving this matter careful thought for some time as it is one of the major and difficult problems we are confronted with in our foreign relations.

I fully agree with you that we should have some definite policy mapped out and I feel that this can best be done in the way you suggest, namely, by setting up a Commission of highly important citizens to examine into the whole question in Haiti, and to make a report of concrete suggestions as to the course to be followed for the future.

The Haitian problem is one that has been left to each succeeding Administration by the Wilson Administration. The institution of the High Commission was started in 1922³² as a result of the recommendations of the Senatorial Investigating Committee of 1921. In view of the lapse of time since then, I feel it eminently desirable that the whole question should again be carefully reviewed and a definite policy determined upon.

I am [etc.]

H. L. STIMSON

I should like to talk with you about this before the personnel of the Commission is decided on.

H. L. S.

838.00 Commission of Investigation/3

Memorandum by Mr. Winthrop R. Scott, of the Division of Latin American Affairs, of a Conversation With the Haitian Chargé (Lizaire)

[WASHINGTON,] December 4, 1929.

Mr. Lizaire stated that he had called to inquire concerning the Presidential Commission which he understood was to be sent to Haiti. He said that he wished to make a report to his Government concern-

³² See *Foreign Relations*, 1922, vol. II, pp. 461 ff.

ing this matter. I asked Mr. Lizaire if he had seen the report of the President's Message²³ which made reference to this matter and, upon his replying in the negative, I showed him a copy of the *Washington Post* containing the text of the President's message and pointed out to him that portion which dealt with the proposed commission to Haiti. I added that this was about all that could be said about the commission at this time. Mr. Lizaire thanked me and said that he would send a cable to his Government transmitting the information as contained in the American press.

The Haitian Chargé briefly touched on political matters in Haiti, making reference to the recent announcement of President Borno that he would not be a candidate for re-election.²⁴ The Chargé stated that, in spite of Mr. Borno's public statement, the principal candidates for the Presidency were now members on the Council of State and their forces so divided that it might not be possible for an agreement to be reached on any given candidate. In such case, a situation might arise which would make inevitable the re-election of President Borno. It should be added, parenthetically, that this statement has been made by Mr. Lizaire on almost every occasion when he has visited the Department during the past few months.

Mr. Lizaire then referred to the students' strike in Port au Prince,²⁵ stating that he felt the affair was most regrettable and was due to a lack of understanding on both sides. Amplifying this idea he said that he thought the students felt that a portion of the money which was due them in the form of scholarships was being diverted to help finance the payment of salaries to experts who had been hired by the service technique and who, according to the opinion of these boys, were personal friends of Dr. Freeman.²⁶ Mr. Lizaire added that he, of course, understood that such an idea was absurd but that the whole spirit of the service technique and the work that they were attempting to do was quite generally misunderstood among Haitians.

Upon closing the interview, Mr. Lizaire again referred to the question of the Presidential commission in Haiti and stated that he felt that perhaps the Department should know that President Borno was very much opposed to a commission of this kind being sent to Haiti. I reminded the Chargé that the majority of American officials in Haiti were, of course, commissioned officers or employees of the United States Government and subject to administrative control by their Government, whether on duty in Haiti or elsewhere. Mr. Lizaire said that he fully appreciated that fact and could not, personally, see how any objection could be raised to any investigation which might be

²³ Annual message of December 3, 1929, vol. I, p. v.

²⁴ See telegram No. 87, November 29, 1929, from the High Commissioner in Haiti, p. 174.

²⁵ See pp. 175 ff.

²⁶ Director of the Service Technique.

made of the work of the American officials as such, but that any commission which would go to Haiti would inevitably greatly enlarge the scope of its review beyond the question of American officials. It was an investigation of purely Haitian affairs to which President Borno objected. To this last I made no comment but thanked Mr. Lizaire for the interest he had shown in bringing to the attention of the Department his point of view, or that of his Government, on these various subjects.

W[INTHROP] R. S[COTT]

*Message of the President of the United States to Congress,
December 7, 1929*²⁷

In my message to Congress of the 3d instant²⁸ I indicated my concern as to the future of our policies in Haiti. I stated that we have there about 700 marines, and that we are confronted with a difficult problem, the solution of which is still obscure. I further stated that if Congress approves I shall dispatch a commission to Haiti to review and study the matter in an endeavor to arrive at some more definite policy than at present.

Our representatives in Haiti have shown great ability and devotion, and have accomplished signal results in improvement of the material condition of that people. Yet our experience has revealed more clearly than was seen at first the difficulties of the problem, and the entire situation should be reviewed in the light of this experience.

Since the dispatch of my message disturbances in Haiti emphasize the importance of such an investigation and determination of national policies in the immediate future.

The students at the agricultural school at Damien went on a strike on October 31 as a protest against a new policy of the Haitian Government. The Haitian Government has heretofore allotted \$10,000 per annum to this school for scholarships, but this year it withheld \$2,000 of the appropriation in order to make it possible for needy students to perform practical school work on the grounds. Sympathetic strikes were subsequently declared in the medical and law schools. President Borno appointed a committee of Haitians to inquire into the matter and it seemed probable at the time that recommendations presented by this committee and accepted by the authorities would adjust the difficulty. Unfortunately, advantage was taken of the situation by various agencies to foment disturbances against the Haitian administration, and on December 3 the American high commissioner reported that the strike movement had spread

²⁷ Reprinted from H. Rept. 39, 71st Cong., 2d sess., p. 1.

²⁸ Vol. I, p. v.

throughout the country and that it was feared that the Haitian employees of the departments under American treaty officials might become involved.

On December 4 customhouse employees at Port au Prince abandoned their work in a disorderly manner and crowds have gathered in Port au Prince. At the same time there were reported demonstrations by crowds at Cape Haitien in sympathy with the disturbance in Port au Prince. The American high commissioner reported that on the morning of December 4 it was feared that disorderly conditions would arise at Aux Cayes and similar disturbances were possible at other places.

The high commissioner has asked that additional marines be in readiness to make sure that if the situation becomes serious American lives will be protected, and the force he has suggested has been ordered dispatched for that purpose.

I feel that it is most desirable that the commission mentioned in my message of December 3 be constituted and sent to Haiti without delay, and I therefore request the Congress to authorize the immediate sending of such a commission and to appropriate for this purpose \$50,000. It is my intention to include one or two members from each House of Congress on this commission.

HERBERT HOOVER

THE WHITE HOUSE, December 7, 1929.

GENERAL INSTRUCTIONS TO THE HIGH COMMISSIONER IN HAITI

123R914/124

The Secretary of State to the High Commissioner in Haiti (Russell)

No. 406

WASHINGTON, March 14, 1929.

SIR: The Department feels that it would be useful at this time, when a change is being made in the Financial Adviser-General Receiver of Customs, to review again the situation with respect to the work of the Treaty Officials in Haiti.²⁹

The Department wishes in the first place to observe that the provisions of the Treaty between the United States and Haiti, signed at Port au Prince on September 16, 1915,³⁰ places the United States in a relation to Haiti of the very highest fiduciary character. Every consideration and requirement of good neighborhood, good faith, and national interest and honor demand that this Government shall spare

²⁹ Sidney de la Rue succeeded Arthur C. Millspaugh as Financial Adviser-General Receiver. For summaries of reports of the Treaty Services, see *Eighth Annual Report of the American High Commissioner at Port au Prince*, appendices I-V, pp. 47 ff.

³⁰ For text of treaty, see *Foreign Relations*, 1916, p. 328; for text of additional act extending the duration of the treaty, see *ibid.*, 1917, p. 807.

no effort, be lacking in no measure, and exert every influence necessary for the due and proper performance of its responsibilities and obligations under the Treaty. The Government of the United States and the Treaty Officials are under the most urgent duty of seeing that the interests and the welfare of Haiti and its people are at all hazards promoted and protected. Indeed the Department is of the opinion that, in the unfortunate contingency that the interests of citizens of the United States should conflict with the true interests of Haiti and her people, the interests of the former must yield to those of the latter. The United States, having voluntarily assumed a conventional relationship which, by virtue of its superiority in prestige and power, would enable it to impose its will to the advantage of its own interests and the interests of its nationals, must, for the vindication of its own prestige and honor, see to it that its every act and the every act of the Treaty Officials are put beyond the possibility of challenge on any such ground. Yourself, as High Commissioner, and every Treaty Official must be constantly guided by these principles.

As set forth in the Department's instruction to you of February 11, 1922,³¹ the Department was not entirely satisfied with the conduct of our relations to Haitian affairs up to that date, and for that reason the President of the United States commissioned you to represent him in Haiti for the purpose of investigating, reporting upon, and supervising the performance of their duties by the officers nominated by the President of the United States and appointed by the President of Haiti, pursuant to the provisions of the Treaty, in order that the purposes of said Treaty might be fully accomplished. In the instruction above mentioned, you were informed that it was the intention of the Department that the High Commissioner should have general supervision over the General Receiver of Haitian Customs, the Financial Adviser of Haiti, the officers commanding the Haitian *gendarmarie*, and all other officials nominated by the President of the United States and appointed by the President of Haiti, in accordance with the provisions of the said Treaty, or any other officials who might thereafter be so appointed by virtue of said Treaty or by virtue of any amendment thereto. The Government of Haiti was cognizant, in a general way, of the character of these instructions and acquiesced therein.

The Department feels that the seven years that this new regime has been in effect has clearly demonstrated the advantage thereof over the system existing between 1915 and 1922. The Department therefore desires to reiterate its instruction of February 11, 1922, and in doing so it feels that the following amplification thereof will be conducive to cooperation and efficient administration :

³¹ *Ibid.*, 1922, vol. II, p. 461.

It is necessary to have one guiding authority over the Treaty Officials in Haiti and the High Commissioner has been commissioned by the President for that purpose and, in setting out on his mission, he was, as stated above, instructed that he should have general supervision over the work of the General Receiver and the Financial Adviser of Haiti. Very great responsibility is therefore placed upon the High Commissioner in conducting relations between the United States and Haiti and for the effective working out of our Treaty obligations. In discharging this responsibility wherein a number of important technical and weighty questions are involved, the Department feels sure that the High Commissioner will naturally rely upon the advice and guidance of the technical experts provided for in the Treaty. The Department feels that the best results can be obtained in the matter of finances, for instance, if the High Commissioner will make no commitments or promises to the President of Haiti or other Haitian officials without first consulting and reaching an accord with the Financial Adviser-General Receiver. This official has a very definite status under the Treaty and very important and exacting duties and responsibilities are placed upon him, and the Department feels that he will be very materially assisted in the discharge thereof if the Haitian Government is shown that he, being the responsible adviser of the High Commissioner in financial matters, is supported by the High Commissioner.

It is thought that a great deal can be done to increase his prestige with the Haitian authorities and hence to facilitate his work if generally, after the High Commissioner and the Financial Adviser have themselves agreed upon a course of action to pursue, the High Commissioner will have the Financial Adviser accompany him to the President or any other Haitian officials concerned to explain the technical matters in person.

If the High Commissioner and the Financial Adviser are unable to agree upon the course of action to be recommended to the Haitian Government, the Department desires the same procedure to be followed as is set forth in its instruction of February 11, 1922, regarding the approval of the yearly budget, namely, that the matter in dispute be referred to the Department for final adjustment. In order that the Department may come to a decision in the matter, it would want to have a full presentation of both sides of the case submitted to it by the officials concerned through the High Commissioner.

An extra copy of this instruction is enclosed herewith for the information of the Financial Adviser-General Receiver and other Treaty Officials, to whom you will please transmit it. You will also please show them a copy of the Department's instruction of February 11, 1922, calling their attention especially to the last paragraph thereof,

which very clearly sets forth the desires of this Government in the dealings of the Treaty Officials with the Haitian Government.

I am [etc.]

FRANK B. KELLOGG

123R914/125 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT-AU-PRINCE, March 25, 1929—1 p. m.

[Received 8:33 p. m.]

24. Unless otherwise instructed I propose to withhold action on the Department's instruction number 406, March 14, 1929, sending a request for reconsideration of certain features therein contained. My despatch discussing these features will be forwarded by next pouch.

RUSSELL

123R914/126

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1391

PORT-AU-PRINCE, April 2, 1929.

[Received April 9.]

SIR: I have the honor to acknowledge the receipt of the Department's Instructions No. 406 of March 14, 1929.

A careful examination of those instructions led me to believe that there were certain features contained therein which the Department might desire to change, if more fully informed of the existing situation. Accordingly, I sent my telegram No. 25 [24] of March 25, 1929.

The three features of the Department's Instruction under acknowledgment to which I wish to invite the Department's attention, and of which I request a reconsideration are as follows:

(a) "The Department feels that the best results can be obtained in the matter of finances, for instance, if the High Commissioner will make no commitments or promises to the President of Haiti or other Haitian officials without first consulting and reaching an accord with the Financial Adviser-General Receiver".

(b) "It is thought that a great deal can be done to increase his prestige with the Haitian authorities, and hence facilitate his work, if after the High Commissioner and the Financial Adviser have themselves agreed upon a course of action to pursue, the High Commissioner will have the Financial Adviser accompany him to the President or any other Haitian official concerned to explain the technical matters in person".

(c) "If the High Commissioner and the Financial Adviser are unable to agree on the course of action to be recommended to the Haitian Government, the Department desires the same procedure to be followed as is set forth in its Instructions of February 11, 1922 regarding the approval of the yearly budget, namely, that the matter in dispute be referred to the Department for final adjustment".

Referring to (a). The financial control now existing in Haiti has been one of gradual growth. It goes far beyond the provisions of the Treaty. The Department is fully aware that the American-Haitian Treaty of 1915 was based upon the American-Dominican Treaty of 1907,³² and Article V of the 1915 Treaty might well be interpreted to be applied in the same manner as a similar article in the Dominican Treaty is applied in the Dominican Republic. The present system of financial control has been built up by the High Commissioner largely through a spirit of cooperation, intelligence, and good judgment on the part of President Borno. It does not rest on the provisions of the Treaty but is beyond the Treaty, an extension brought about through the honest desire of President Borno to rehabilitate and develop Haiti. If this cooperative spirit should cease to exist and be replaced by an antagonistic spirit on the part of the Haitian Government such as was evinced by President Dartiguenave during the latter part of his term of office, it would be difficult, if not impossible, to maintain a financial control other than that authorized by the Treaty. The result would be a tremendous blow to the development work now being systematically and progressively carried on.

The Department is fully aware of the above and has clearly shown its approval not only by giving the High Commissioner the necessary authority in my original instructions of February 11, 1922, but also in reiterating this point in the second paragraph, page 3, of its Instruction No. 406 of the 14th of March 1929 which reads, in part, as follows:

"It is necessary to have one guiding authority over the treaty officials in Haiti. The High Commissioner has been commissioned by the President for that purpose . . .".

Article 14 of the Treaty of 1915 gives to the President ample authority for the appointment of a High Commissioner with the power to supervise the work of the Treaty Officials.

As the Department points out in the continuation of the above quoted paragraph, the corollary of such authority is great responsibility. If the High Commissioner errs in judgment or fails to inform himself properly and adequately, he must answer to the Department and to the President.

My interpretation of the Instructions contained in (a) is that I must, in the future, not only consult, but must reach an agreement with the Financial Adviser-General Receiver before any action can be taken. If I am unable to reach an agreement, no matter how unimportant the question may be, it would have to be referred to the Department. It would appear that this necessity not only materially lowers the prestige of the High Commissioner, but also is contrary to the instructions

³² *Foreign Relations*, 1907, pt. 1, p. 397.

of the Department making the High Commissioner the one guiding authority.

It is, therefore, recommended that the words "and reaching an accord with" be deleted from (a).

Referring to (b). It has been my endeavor, in accordance with my instructions from the Department to have the various treaty officials maintain the closest contact with their respective ministers.

According to the Department's Instructions, all matters of moment must be taken up with the Haitian Government through the High Commissioner. The usual routine that has been carried out by me in the past is as follows: At the Friday Conferences of Treaty Officials at my office, or at other times during the week, certain points are brought to my attention by treaty officials, and I am informed that they can get no action from their ministers on an important matter or fail to reach an accord with them; that a court of justice is not supporting the collector of customs at some remote port of Haiti; and other similar questions that are constantly arising. I obtain all available information from the treaty official. On urgent matters I make an appointment to see President Borno at once. Otherwise, I make a note and an appointment for the following morning on my way to the office. During the sessions of the Council of State when President Borno is always in residence at Port au Prince, I stop at the palace on my way to the office practically every morning. I have my notes and discuss the various matters that have been brought to my attention by the treaty officials. When I have finished, President Borno usually produces his notes on matters that he wishes to discuss with me. If I have not been informed regarding these matters, I invariably tell him that I will consult the treaty official concerned and give him my opinion thereon. This course of action I always follow. At times, when the subject is important, and in order to have it a matter of record, I embody it in a note to President Borno. Whenever the question of a law or a matter of finances is concerned, I always request that President Borno, before submitting the matter to the Council of State, have his Minister of Finance take it up with the Financial Adviser. The Financial Adviser and I then discuss the matter and in the very unusual case where we are unable to agree and the question is of sufficient importance to warrant such action, I issue appropriate written instructions to him for his guidance. If the Financial Adviser disagrees with me he can always, after carrying out my instructions, place his case before the Department through official channels.

In my relations with the treaty officials, I have consequently had them keep me informed of all activities in their organizations, of their relations with their respective ministers and other Haitian officials, and

I have directed that all correspondence between treaty officials be forwarded through me.

The organization of treaty officials originated by me in 1922, in accordance with my Instructions as outlined in an organization chart accompanying my Despatch No. 35 of May 20, 1922,³³ has been supplemented by instructions issued by me to the treaty officials.

My relations with President Borno are, naturally, very close. I could not have built up the present governmental structure, financial as well as otherwise, without first having obtained his absolute confidence. It has been my custom to see him frequently. He will see me at any time, night or day. On occasions when the matter to be discussed is technical and I do not feel that I can properly present it to him, and that it would in any way assist me or the treaty official concerned by having the treaty official present, I have always taken him with me. The treaty officials are, however, by Treaty agreement, advisers to their respective ministers and on several occasions President Borno has pointed this fact out to me and informed me that he desired to consult only with me on the subject. When technical advice is necessary he has, however, never refused my request to bring the treaty official concerned with me. But on such occasions, he has almost invariably had his proper cabinet officer present. Naturally, our discussion has been limited.

In view of the above, it is requested that the Department consider the advisability of eliminating paragraph (b).

Referring to (c). The Department will note, from an examination of my Instructions of February 11, 1922, that the High Commissioner now determines, in consultation with the Financial Adviser, the general form which the expenditures should take. It is pertinent to point out that it is not a question of accord, but one of consultation. Furthermore, at the present time, it is only when a discussion arises between the Haitian Government and the High Commissioner that the question is referred to the Department. According to the instructions of the Department as contained in (c) it is my interpretation that the Department now desires to take away from the High Commissioner the authority given him by his Instructions of the 11th of February 1922 and in the event that an agreement is impossible between the High Commissioner and the Financial Adviser that the matter be referred to the Department.

As the Department has stated there must be one guiding authority in Haiti, naturally, such authority will seek the advice of the treaty official involved. In a question of finances, he would have to be very certain of his ground to oppose the desires of the Financial Adviser, and in doing so he would assume grave responsibility. On the other

³³ Not printed.

hand, the present system of financial control which the High Commissioner has succeeded in building up gives the Financial Adviser, if there is no controlling head in Haiti, an authority that is believed to be unwise. It practically makes of him a financial dictator, lowers the prestige of the High Commissioner, not only in the eyes of the Haitian Government, but also in those of the treaty officials and tends to make the other treaty officials endeavor to place themselves in the good graces of the Financial Adviser.

In view of the above I have to recommend that the Instructions contained in (c) be cancelled.

The comment of my Legal Adviser, Judge Richard U. Strong is attached hereto.³⁴

I have [etc.]

JOHN H. RUSSELL

123R914/141a

The Secretary of State to the High Commissioner in Haiti (Russell)

No. 430

WASHINGTON, October 25, 1929.

SIR: The Department has received your strictly confidential despatch No. 1391 of April 2, 1929, in which you recommend that certain features of the Department's instruction No. 406 of March 14, 1929, be reconsidered. After careful consideration of your observations regarding the present relations between the High Commissioner and the Financial Adviser it is believed that the intent of the Department's instruction above referred to should be made somewhat clearer.

The Department has no intention to diminish the responsibility or the supervisory authority which was entrusted to you as High Commissioner in its instruction of February 11, 1922. It still looks to you to coordinate and direct the activities of the American treaty officials in Haiti so far as their activities are properly subject to control by the Government of the United States.

The Financial Adviser-General Receiver, however, is entrusted by the Treaty of 1915 with certain functions such as the collection and application of revenues, the authorization of payments under the appropriation laws, and the maintenance of the service of the public debt, in the discharge of which his primary duty is simply to carry out the provisions of the Treaty and the laws of Haiti. In these matters the Department feels that he should act on his own responsibility as a Haitian official, and that his acts and decisions in this capacity would ordinarily not be reviewed by the United States Government or its diplomatic representatives except where the legality or the reasonableness of his actions appeared clearly open to question. In such cases the Department would desire you to exercise your good offices in an endeavor to correct the actions in question, and in the event of the

³⁴ Not printed.

failure of your efforts, to report the matter to the Department. The items in the Department's instruction of March 14 which you have summarized in paragraphs (a) and (c) on Page 2 of your despatch of April 2, would then be applicable.

The situation is entirely different where there are involved questions of policy such as the allotment of funds to different departments of the Government and recommendations regarding legislation and concessions. The United States Government has a direct responsibility toward the Haitian Government in such matters, because of the provisions of Articles 1, 13 and 14 of the Treaty of 1915, and you as American High Commissioner are its principal representative in discharging this responsibility. The Department would, however, expect you as a matter of course to avail yourself of the advice of the treaty officials who have been appointed because of their technical qualifications, and would further expect you, when important questions of policy were involved and when there was no necessity for immediate action, to consult the Department before committing yourself to a definite course of action if there was found to be an irreconcilable difference of opinion between yourself and one of the treaty officials regarding a technical matter.

With reference to the statement on page 5 of your despatch that the Financial Adviser can always place his case before the Department through official channels after carrying out your instructions, if he disagrees with them, I desire to point out that the best interests of this Government and all others concerned are best served by referring differences of opinion to the Department before and not after final action has already been taken.

With respect to that portion of the Department's instruction of March 14 which is referred to by you as paragraph (b), the Department has not desired to embarrass you in your relations with the President of Haiti, or to interfere with the frequent and informal conferences which you hold with him. It entirely approves the manner in which your personal contact with the President has been maintained. It does feel, however, that it would be helpful if the Financial Adviser were present at conferences where decisions regarding financial matters of importance are to be made. The Department did not in the least intend to imply that you should have the Financial Adviser accompany you at all conferences with the President.

With reference to your statement that "the financial control now existing in Haiti . . . goes far beyond the purpose of the treaty", it should be clearly understood that it has never been the desire or intention of the Department to establish any control in Haiti except in

strict accord with the provisions of the treaty, and it is not desired that the representatives of the United States should exercise any authority which is not properly derivable from those provisions. This does not mean that the Department is not glad to have you and the other treaty officials suggest to the Haitian Government action in line with the purposes of the treaty or cooperate with the Government of Haiti at the latter's request in any proper project for the welfare of the Republic. In this relation it is to be observed that treaty provisions elsewhere referred to herein contemplate a wide range of duties in the Government of the United States.

The Department does not consider it entirely accurate to state that the American-Haitian Treaty of 1915 was based upon the American-Dominican Treaty of 1907. A perusal of the treaties will show that there is a very great difference in their provisions. In the case of the Haitian treaty Articles 1, 2, 9, 10, 13 and 14 impose very extensive obligations upon the Government of the United States to assist the Haitian Government to remedy the condition of its revenues and finances, to maintain the tranquillity of the Republic, and to carry out plans for the economic development and prosperity of the Republic and its people, which are among the purposes of the treaty as stated in its preamble. It has been the policy of this Government to restrict the action of its representatives in Haiti to matters properly coming within the provisions of the treaty, and it does not authorize any assumption of control or authority which goes beyond them.

You are requested to inform the treaty officials, in such manner as you deem most appropriate, of the substance of the first three pages of the Department's instruction No. 406 of March 14. The remainder of that instruction as hereby modified and the present instruction are for your own guidance, but it is thought that you may wish to inform the treaty officials of the general tenor of the Department's views regarding their relations to you.

I take this occasion to inform you that the Department is most gratified at the progress which has been made in recent years toward the accomplishment of the purposes of the treaty of 1915. It recognizes that this progress is due not only to the efficiency and devotion to duty of the treaty officials and their subordinates but also to your own untiring efforts to promote the welfare of Haiti and to the conspicuous ability with which you have discharged the responsibilities which were entrusted to you upon your appointment as High Commissioner.

I am [etc.]

HENRY L. STIMSON

GOOD OFFICES ON BEHALF OF FRENCH HOLDERS OF OLD BONDS OF
THE NATIONAL RAILROAD OF HAITI

838.51/2102

The French Ambassador (Claudel) to the Secretary of State

[Translation]

WASHINGTON, May 3, 1929.

MR. SECRETARY OF STATE: In 1923, after long conversations, a settlement was reached between the holders of 6 per cent bonds of the Compagnie Nationale des Chemins de Fer of Haiti and the liquidator of this company, according to which each bond should be exchanged against a sum of \$35.75 in specie and a 6 per cent bond of the Republic of Haiti, with a face value of \$75, called bond "C".³⁵

To date, 36,249 certificates have been thus exchanged, leaving a remainder of 471 certificates. In spite of the existence of this remainder, the American Financial Adviser of the Republic of Haiti decided, April 1, 1926, to withdraw the "C" bonds provided for the above mentioned exchange. The Metropolitan Trust Company of New York, entrusted with these exchange transactions, accordingly finds itself unable to give any satisfaction to various holders who have, since that time, presented 56 vouchers for exchange against the "C" bonds.

To my knowledge, neither the Law of December 27, 1923 authorizing the creation of the "C" bonds, nor any subsequent law has fixed a time limit for the exchanges provided in the Paris agreement. The Financial Adviser thus seems to have acted purely on his own initiative, without any legal authorization. When he left office, the liquidator of the Compagnie des Chemins de Fer d'Haiti, Mr. R. L. Farnham, wrote to his successor, but could secure no satisfaction.

Under these circumstances, I should be grateful to Your Excellency if you would be so kind as to use your good offices with the Financial Adviser of Haiti to the end that he may forward to the liquidator the necessary "C" bonds for the exchange of old certificates of the Compagnie des Chemins de Fer which are now presented to the Metropolitan Trust Company or which may be presented in the future.

Please accept [etc.]

CLAUDEL

838.51/2102

The Secretary of State to the French Ambassador (Claudel)

WASHINGTON, July 1, 1929.

EXCELLENCY: I have the honor to refer to your note of May 3, and my preliminary reply of May 20,^{35a} concerning the question of the exchange of certain bonds of the National Railroad of Haiti for bonds of the Series C after April 1, 1926.

³⁵ See *Foreign Relations*, 1923, vol. II, pp. 418 ff.

^{35a} Latter not printed.

A reply has now been received from the Financial Adviser of Haiti ³⁰ setting forth fully the status of this matter.

From the statement of the Financial Adviser it appears that the agreement concluded September 13, 1923, provided for the deposit of National Railroad bonds within ninety days from that date. The plan of the Receiver had been previously agreed to by the Government and this was intended to be carried out by the provisions of the law of December 27, 1923. In Article 4 of this law the Government extended the period for deposit to February 1, 1924. The conditions subsequently imposed by the Haitian Government in providing a further period for the exchange after February 1, 1924, are indicated in the preamble of the Series C loan contract, sanctioned by the law of June 17, 1925. The relevant portion of the preamble reads as follows:

“. . . and in pursuance of an agreement entered into between the Republic of Haiti and the said Receiver whereby the Metropolitan Trust Company of the City of New York with offices at 120 Broadway, City of New York, State of New York, United States of America, has been designated as the bank for the deposit of the said Six Per Cent Gold Sinking Fund Bonds and for the deposit by the Republic of Haiti of the said Temporary and definitive Bonds, Series C, to be issued and deposited by the Republic of Haiti in respect of the exchange for the said deposited Six Per Cent Gold Sinking Fund Bonds, and whereby and whereunder Certificates of Interest in the said temporary bond have been or are about to be issued by the said Trust Company to depositors of the said Six Per Cent Gold Sinking Fund Bonds which are presented for exchange on or before March 31, 1926. . . .”

The Six Per Cent Gold Sinking Fund Bonds mentioned in the quotation are those of the National Railroad. Under this wording only the depositors of those National Railroad bonds presented for exchange on or before March 31, 1926, are entitled to the certificates of interest appurtenant to the above mentioned temporary bond, which in turn was replaced by definitive Series C bonds. In other words, the Series C contract as sanctioned and given the effect of law, limited the period for exchange in that the Series C bonds were to be exchanged for only those National Railroad bonds deposited on or prior to March 31, 1926.

From the above it would appear, therefore, that the Financial Adviser under the Series C loan contract had no authority to approve the exchange of Series C bonds of the National Railroad deposited subsequent to March 31, 1926. In point of fact, however, the period for the exchange was, at the instance of the Haitian Government, extended from the original ninety days agreed to by the bond holders for more than two years.

With a view to a final satisfactory settlement of this matter, however, the Financial Adviser states that a definite settlement of the

³⁰ Not printed.

problem which obtains in virtue of the nonpresentation of a portion of the National Railroad bonds for an exchange within the prescribed period remains to be accomplished. It is trusted that this result will be achieved through a proposed new contract which it is anticipated will be entered into between the Haitian Government and the National Railroad.

I trust that the explanation submitted by the Financial Adviser covers fully the questions on which you desire information.

Accept [etc.]

H. L. STIMSON

838.51/2116

The French Ambassador (Claudel) to the Secretary of State

[Translation ⁸⁷]

WASHINGTON, July 22, 1929.

MR. SECRETARY OF STATE: By a note dated the first of this month, Your Excellency was pleased to answer my note of May 3 last, relative to the exchange of certain bonds of the National Railway Company of Haiti for 6 per cent bonds of the Republic of Haiti going by the name of bond "C".

The first part of Your Excellency's note refers to a paragraph of the contract entered into by the Haitian Government and the Metropolitan Trust Company of New York, which was enacted into a law on the 17th of June, 1925, and set the date of March 31, 1926, for the last time limit in which the bonds of the National Railway Company of Haiti could be exchanged for "C" bonds. On the ground of that provision, Your Excellency writes: "From the above it would appear, therefore, that the Financial Adviser . . . had no authority to approve the exchange of bonds . . . deposited subsequent to March 31, 1926." And you add: "In point of fact, however, the period for the exchange was, at the instance of the Haitian Government, extended from the original ninety days agreed to by the bondholders for more than two years."

Your Excellency would permit me again to lay stress on the unilateral character of that decision made by the Financial Adviser of the Haitian Government. That decision, if maintained, would be tantamount to a repudiation of its engagements by the Haitian Government. Now, that Government was always so adverse to limiting the time for exchange that the first extension of time,—as Your Excellency will remember,—was requested by the Haitian Government itself. It appears, furthermore, from a letter from Mr. Farnham to Mr. Garreau-Dombasle, Commercial Attaché of the Embassy, of which I have the honor to enclose a copy,⁸⁸ that President Borno was

⁸⁷ File translation revised.

⁸⁸ Not printed.

not informed of the terms of the contract made by the American Financial Adviser with the National City Bank, or that, if that instrument was made known to him, he had not grasped the scope of the limitative clause therein inserted.

In the second part of your note, Your Excellency informs me that the final settlement of the matter might be reached through a new agreement, now under consideration, between the Haitian Government and the National Company.

Now it appears from information I have and in particular from Mr. Farnham's letter, of which a copy is enclosed, that as early as 1926, a plan of reorganization of Haitian railways had been drawn up by the Company, remodeled by the American agents in Haiti and approved by the Department of State. It is only a few weeks ago that the text was submitted to the Haitian Government for its ratification. Now, even before the said Government had time to look into the draft, it was, according to Mr. Farnham, entirely remodeled by the combined action of the American agents in Haiti and the Haitian officials.

Under those conditions, it is impossible not to arrive at the conclusion that the American authorities in Haiti, fully aware of the more and more critical condition of affairs of the National Company, seek, for reasons which furthermore I am unable to see, a forced sale, which will necessarily be disastrous, of the property of the said Company.

Considering all of the foregoing, I take the liberty of urging Your Excellency in the most pressing manner that the case be given further consideration so that the Financial Adviser of Haiti may, without delay, authorize the delivery to Mr. Farnham of the series "C" bonds that are necessary for the exchange of the former securities of the Railway Company which are now or may hereafter be produced at the Metropolitan Trust Company.

I am satisfied that Your Excellency will perceive that the viewpoint I now offer is legitimate and I beg you to accept [etc.]

CLAUDEL

838.51/2116

The Secretary of State to the French Ambassador (Clauzel)

WASHINGTON, August 17, 1929.

EXCELLENCY: I have the honor to acknowledge your note of July 22, 1929, with reference to your previous note of May 3 and my reply thereto of July 1, concerning the question of the exchange of Series "C" bonds of the Haitian Government for the old bonds of the National Railway of Haiti. I note Your Excellency's fear that the decision of the Financial Adviser that he lacks authority under the loan contract to accept more Railway bonds for exchange, if maintained, will result

in an unfair discrimination against the holders of the old National Railway bonds.

The contents of your note are being referred to the American Legation at Port au Prince with the request that this matter be called to the attention of the Financial Adviser in order that a further effort may be made to effect a settlement with the holders of the old National Railway bonds who did not deposit their bonds for exchange.

Accept [etc.]

[File copy not signed]

838.51/2116

The Secretary of State to the Chargé in Haiti (Grummon)

No. 914

WASHINGTON, August 17, 1929.

SIR: There is enclosed a copy in translation of a note received from the French Embassy with further reference to the question of the exchange of Series "C" bonds³⁹ and the Department's reply thereto.⁴⁰

You are instructed to take up this matter with the Financial Adviser and to inform him that the Department feels that it is very desirable that a method be found for reaching a settlement with these remaining bondholders. Aside from the question of policy the Department is inclined to feel that considerations of both law and equity point to the desirability of such a step. While the terms of Article V of the law of December 27, 1923, appear to constitute an attempt by the Government of Haiti to rid itself of its obligation as guarantor of the interest and amortization of the National Railroad bonds, it is not perceived that the Haitian Government could by its sole act divest itself of this obligation. It would seem that the legal significance of the statute in question would amount only to an attempt by the Government to induce holders of the railroad bonds to consent to an exchange for the Series "C" bonds. It may be noted that there are outstanding only 471 certificates representing about \$51,000 on the basis of the settlement previously effected.

In view of the limitation of the time for deposit of Railroad bonds to March 31, 1926, contained in the contract of May 26, 1925, with the National City Bank as fiscal agent, it would appear desirable that an attempt be made to arrive at an informal understanding with the bank before the question is taken up with the Haitian Government. If the bank offers no objection to a modification of the loan contract, it is suggested that this matter be brought to the attention of the Haitian Government with the suggestion that legislation be enacted which will authorize the Financial Adviser to place on deposit with the fiscal agent sufficient "C" bonds to effect the exchange of the remaining outstanding 471 certificates of the National Railroad. While it would be

³⁹ *Ante*, p. 220.

⁴⁰ *Supra*.

desirable that the exchange be effected within a relatively short time, it is not believed that a period limiting the time for exchange should be specified in any new legislation which may be passed.

I am [etc.]

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

838.51/2116 : Telegram

The Secretary of State to the Chargé in Haiti (Grummon)

WASHINGTON, September 10, 1929—5 p. m.

45. Please ask the Financial Adviser what progress is being made in accordance with the Department's instruction of August 17 in regard to the further exchange of "C" bonds. It appears that certain holders of National Railway bonds are about to institute foreclosure proceedings and the Department trusts that the Haitian Government will feel disposed to consider favorably enacting legislation in the near future, which will enable the outstanding bonds to be taken care of and a foreclosure avoided. Submit your reply promptly by telegram.

STIMSON

838.51/2127

The Chargé in Haiti (Grummon) to the Secretary of State

No. 1498

PORT-AU-PRINCE, September 11, 1929.

[Received September 16.]

SIR: Replying to the Department's instruction No. 914 of August 17th last with further reference to the question of the exchange of Series C bonds, I have the honor to inform the Department that the matter was duly brought to the attention of the Financial Adviser with instructions to arrive at an informal understanding with the National City Bank before the matter was formally discussed with the Haitian Government.

However before receiving the above instruction Mr. de la Rue had already conferred with the President about the matter in view of previous conversations which had taken place between the latter and the French Minister regarding the exchange of the bonds in question. Subsequently Mr. de la Rue, in accordance with the Department's instruction under acknowledgment, pointed out to President Borno that the limitation of time placed on the exchange of the bonds by the Haitian Government could not operate to bar the right of bondholders under the Government's guarantee to them. The President agreed as to the advisability of effecting a settlement in the matter but in view of the fact that the bondholders have already had an opportunity to surrender their bonds at a time when the Government had provided funds therefor, as accepted by the other bondholders, he felt that the Government would be justified in not grant-

ing them quite as generous terms as to the others. The President authorized Mr. de la Rue in the event that the cooperation of the National City Bank could be obtained, to offer to exchange the 471 outstanding certificates of Series C bonds, at a rate of \$72.39 in Series C bonds bearing the current coupon per certificate. Under the original settlement the value of the certificates was \$72.39 in bonds with interest from October 1st, 1923, and in addition the bondholder received the sum of \$24.14 in cash as payment on principal. The President, however, refused to agree to the payment of any cash as a part of the present settlements, inasmuch as the money provided for the full cash settlement was turned over to the Receiver of the National Railroad in February 1924, and, as far as the Haitian Government is concerned, is still in his possession. President Borno feels that the obligations of the Government have thereby been completely carried out and that the bond-holders must look for such cash settlement to the Receiver of the National Railroad.

Mr. de la Rue considers that the President's offer justifies serious consideration and has therefore written to the National City Bank to request its cooperation. He would like to be informed as to whether it is the desire of the Department for the interest to run on the new Series C bonds from October 1st, 1923, as in the case of the previous exchanges. The amount required for such back interest payments would approximate \$12,300.00 and Mr. de la Rue points out that no reserve has been set up for this purpose. Such payments would consequently have to be made from the very small portion of the surplus which is available over and above the marginal safety requirements for general purposes of the Government. In this connection the Department will be interested to learn that available funds for sanitation, public works and education, have been so low during the present fiscal year, due to the drop in revenues, as to preclude the appropriation of the usual extraordinary credits for the above purposes during the summer months. Any additional obligations assumed at this time must therefore be undertaken at the expense of delaying the further carrying out of the program for sanitation, public works and education.

In connection with the whole matter of settlement of the Series C bonds still outstanding, the Financial Adviser desires to invite the Department's attention to one phase of a settlement of this sort. I have to quote herewith from a recent communication on the subject explaining the reason that action on the exchange of these bonds has been delayed:

"I desire to have the Department's attention directed to one phase of a settlement of this sort, because it must appear obvious to it that such a settlement could have been effected at any time since 1926, provided of course no opposition was raised by the National City

Bank. The Government has been reluctant to do anything about these bonds because it felt that further moneys expended for the National Railroad was throwing good money after bad, and that the pressure which was being brought to bear on the Receivership of the National Railroad might have some effect in getting a better settlement between the National Railroad and the Government. It is recalled that under the contract which has just been refused by the Haitian Government, the National Railroad would have assumed the obligation of immediate settlement of these claims."

I have [etc.]

STUART S. GRUMMON

838.51/2127 : Telegram

The Secretary of State to the Chargé in Haiti (Grummon)

WASHINGTON, September 20, 1929—6 p. m.

48. Your despatch No. 1498 of September 11. The Department perceives no objection to offering the bondholders "C" bonds bearing the current coupon plus a payment equal to the cash payment originally offered although this proposal may not of course be accepted by the bondholders. With respect to the cash payment it is assumed that the money already provided by the Haitian Government is still in the hands of the receiver or the trustee and is available to carry out further exchanges. Have you any definite information to the contrary?

STIMSON

BOUNDARY DISPUTE WITH DOMINICAN REPUBLIC

(See volume I, pages 943 ff.)

HONDURAS

REPRESENTATIONS ON BEHALF OF AMERICAN INSURANCE COMPANIES DOING BUSINESS IN HONDURAS AGAINST STAMP TAX AND CASH DEPOSIT DISCRIMINATION

815.512 Stamp Tax/7

The Secretary of State to the Minister in Honduras (Summerlin)

No. 328

WASHINGTON, February 4, 1929.

SIR: The Department refers to correspondence with your Legation during the years 1927 and 1928,¹ concerning the Decree of October 5, 1927, establishing a system of stamp taxation in Honduras and to despatch No. 414 of June 29, 1928, from the American Consulate at Tegucigalpa,² a copy of which it appears was sent to the Legation and which refers to the same subject and reports that the British Consulate at Tegucigalpa has lodged a protest on behalf of British insurance companies against certain provisions of this Decree.

The Decree provides for a tax of 100 pesos per annum to be assessed against the agents of foreign insurance companies while no provision is made in the law for a tax against the agents of Honduran companies. The Decree further provides for a tax of 1% upon the value of the premium of life insurance policies of foreign companies as against a tax of 1/2% assessed upon the value of premiums of such policies of Honduran companies.

The Department considers that these provisions of the Decree were in violation of certain provisions of Article VIII of the Treaty of 1864 between the United States and Honduras³ which was in force when the Decree was passed. It is provided in this Article that with respect to matters enumerated therein, the citizens of the two countries shall not be charged in the other country with any higher impost or tax than are the native citizens, and one of the matters enumerated in that Article is that relating to the sale of personal property "of every sort and denomination". The Department is of the opinion that the Treaty provision on this point is broad enough to cover the sale of policies of insurance and that, therefore, the attempt by Honduras to hamper the sale of insurance policies by foreign companies through higher taxes than are imposed upon native companies was in

¹ Previous correspondence not printed.

² Not printed.

³ William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, p. 952.

violation of the provisions of the Article mentioned, especially as one measure of discrimination was a tax upon the value of the premiums of life insurance companies.

The Department is further of the opinion that the provisions which have been mentioned as contained in the Decree in question, are in conflict with provisions of Article I of the Treaty of Friendship, Commerce and Consular Rights between the United States and Honduras⁴ which has superseded the Treaty of 1864 and which was proclaimed July 23, 1928.

It is provided in Article I of the Treaty of 1928, that nationals of one contracting party shall be permitted to engage in commercial activities within the territories of the other upon the same terms as nationals of the state of residence and it is further provided that nationals of one country within the territories of the other shall not be subjected to the payment of any internal taxes or charges other or higher than those that are exacted of and paid by the nationals of such other country.

The provisions of the Decree to which reference has been made seem clearly to conflict with both these provisions of Article I of the Treaty of 1928.

Unless you perceive some good reason to the contrary, the Department desires you to bring the matter to the attention of the Foreign Office, on behalf of American insurance companies doing business in Honduras, in the light of the foregoing and to express the hope that it will be found possible promptly to modify the provisions of the Decree in the points indicated so as to remove the matter of conflict with the treaty.

The Department also desires you to report as to the results, if any, which were accomplished by the protest reported to have been lodged by the British Consulate against the indicated provisions of this Decree.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

815.5064P19/9: Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, March 25, 1929—noon.
[Received 2:35 p. m.]

29. With reference to Department's instruction No. 500, September 13, 1922,⁵ Legation is informed that the Honduran Government is again demanding deposit of \$50,000 from Pan American Life Insurance Company under decree 107, April 1, 1922. I shall take the mat-

⁴ Signed December 7, 1927, *Foreign Relations*, 1927, vol. III, p. 92.

⁵ Not printed.

ter up informally today but I request instructions to enter formal protest along the lines of the Department's No. 328, February 4th last.

SUMMERLIN

815.5064P19/10: Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, March 27, 1929—7 p. m.

25. Legation's 29, March 25, noon. You may take up formally with the Honduran Government the question raised by the renewed attempt to exact from American insurance companies a deposit of \$50,000 under Decree 107, April 1, 1922, using as a guide Department's instruction No. 328, dated February 4, 1929, and previous instructions concerning the Pan American Life Insurance Company.

KELLOGG

815.512 Stamp Tax/9

The Minister in Honduras (Summerlin) to the Secretary of State

No. 871

TEGUCIGALPA, April 27, 1929.

[Received May 8.]

SIR: In reply to the Department's instruction No. 328 of February 4, 1929 (File No. 815.512 Stamp Tax/2[7]) relative to the Honduran Decree of October 5, 1927, which provides for a tax of 100 pesos per annum to be assessed against the agents of foreign insurance companies, while no provision is made for a tax against the agents of Honduran companies, and for a tax of 1% upon the value of the premium of life insurance policies of foreign companies as against a tax of ½% upon the value of premiums of such policies of Honduran companies, I have the honor [to] report that, as a result of representations made according to instruction No. 328, I have now received a favorable reply from the Foreign Office, a copy and translation of which are enclosed herewith.^a

A reply to my note relative to the deposit of \$50,000 required of foreign insurance companies by Decree 107 of April 1, 1922 has not yet been received, but the Pan American Life Insurance Company is now doing business in Honduras without having made the deposit.

I have [etc.]

GEORGE T. SUMMERLIN

^aNot printed. The note, dated April 26, 1929, included a statement that the American insurance companies would be able to do business in Honduras on equal bases with the national companies.

815.512 Stamp Tax/11

The Chargé in Honduras (Merrell) to the Secretary of State

No. 891

TEGUCIGALPA, May 18, 1929.

[Received May 29.]

SIR: With reference to the Department's telegram No. 25 of March 27, 7 P. M. and to the last paragraph of the Legation's despatch No. 871 of April 29, 1929, I have the honor to transmit herewith a copy and translation of a reply ⁷ to the Legation's note making representations relative to the deposit of \$50,000 required of foreign insurance companies doing business in Honduras by Decree 107 of April 1, 1922. As the Department will note this reply states that instructions have been given to the appropriate Honduran authorities not to require the deposit in question of American insurance companies or their representatives in Honduras.

I have [etc.]

GEORGE R. MERRELL, JR.

BOUNDARY DISPUTE WITH GUATEMALA

(See volume I, pages 946 ff.)

BOUNDARY DISPUTE WITH NICARAGUA

(See volume I, pages 975 ff.)

⁷ Not printed.

HUNGARY

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND HUNGARY, SIGNED JANUARY 26, 1929¹

Treaty Series No. 797

*Arbitration Treaty Between the United States of America and Hungary, Signed at Washington, January 26, 1929*²

The President of the United States of America and His Serene Highness the Regent of the Kingdom of Hungary

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

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

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

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention which was signed at Washington, January 15, 1909, but is not now in force, and for that purpose they have appointed as their respective Plenipotentiaries:

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

His Serene Highness the Regent of the Kingdom of Hungary: Count László Széchényi, Envoy Extraordinary and Minister Plenipotentiary of Hungary to the United States of America;

¹Drafts for these treaties were submitted to the Hungarian Legation, March 23, 1928, and were accepted without change.

²In English and Hungarian; Hungarian text not printed. Ratification advised by the Senate, February 18 (legislative day of February 15), 1929; ratified by the President, February 28, 1929; ratified by Hungary, July 6, 1929; ratifications exchanged at Washington, July 24, 1929; proclaimed by the President, July 24, 1929.

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

ARTICLE I

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

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

ARTICLE II

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

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

(b) involves the interests of third Parties,

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

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

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Hungary in accordance with its constitutional laws.

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

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

Done at Washington the 26th day of January in the year of our Lord one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]
SZÉCHÉNYI [SEAL]

Treaty Series No. 798

*Conciliation Treaty Between the United States of America and Hungary, Signed at Washington, January 26, 1929*³

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

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

His Serene Highness the Regent of the Kingdom of Hungary: Count László Széchényi, Envoy Extraordinary and Minister Plenipotentiary to the United States of America:

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

ARTICLE I

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

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The ex-

³ In English and Hungarian; Hungarian text not printed. Ratification advised by the Senate, February 18 (legislative day of February 15), 1929; ratified by the President, February 28, 1929; ratified by Hungary, July 6, 1929; ratifications exchanged at Washington, July 24, 1929; proclaimed by the President, July 24, 1929.

penses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

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

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Hungary in accordance with its constitutional laws.

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

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

Done at Washington the 26th day of January in the year of our Lord one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]
SZÉCHÉNYI [SEAL]

IRISH FREE STATE

LIABILITY TO TAXATION OF PROPERTY LEASED BY THE IRISH FREE STATE FOR LEGATION PURPOSES

701.41d11/93

The First Secretary of the Irish Legation (Macaulay) to the Secretary of State

WASHINGTON, 7 February, 1929.

SIR: I am directed by my Government to inquire whether the proportion of rates and taxes applicable to the three floors of this building, occupied under lease by the Legation, can be repaid to me inasmuch as the lease rent impliedly includes the District rates and taxes paid by the landlord on the building.

The Legation premises include the entire building apart from the basement, and are structurally self-contained.

I have the honour to point out that American Diplomatic officers in the Irish Free State are entitled to exemption in respect of the non-beneficial proportion of local rates paid for premises occupied by them, and it appears equitable that reciprocal treatment should be accorded in regard to the occupancy of premises in this country by the Irish Free State Legation, and by officers thereof entitled to Diplomatic immunity. It should not be difficult to apportion the rates as between the various occupants of this building, with a view to repayment in respect of the portion occupied by the Legation.

I have [etc.]

W[ILLIAM] J. B. MACAULEY

701.41d11/93

The Secretary of State to the Irish Minister (MacWhite)

WASHINGTON, March 15, 1929.

SIR: The request contained in your Legation's note of February 7, 1929, for the repayment to you of the taxes which have been assessed against the building now occupied by your Legation in the proportion corresponding to that part of the building occupied by the Legation has received the careful consideration of this Department.

It is, however, regretted that it will not be possible to render you the assistance you ask, and, in this connection, I am enclosing, as of

possible interest to you, a copy of the pertinent portion of the opinion of the Solicitor of the Department of State in this regard.

I have to inform you that I am in entire agreement with the opinion expressed by the Solicitor.

Accept [etc.]

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

[Enclosure]

Excerpt From Opinion Expressed by the Solicitor of the Department of State

Questions somewhat similar to that raised in the note of February 7, 1929, from the Legation of the Irish Free State have been considered several times by this Department. As long ago as May 22, 1912, and it is clear that there are other earlier cases, this office prepared a memorandum reviewing the authorities and reaching the conclusion that:

“No authorities have gone so far as to lay down the rule that, irrespective of ownership, property used for diplomatic purposes should be exempt from taxation. Such exemption would clearly seem unwarranted even under a most liberal interpretation of the general principle that a diplomatic officer is exempt from local jurisdiction and enjoys certain immunities in order that he may not be interfered with in the discharge of his official duties. Whatever might be the proceedings employed in collecting the tax under such circumstances, no process would be served on the diplomatic officer occupying the rented property, and in no way would there be any attempt to subject him to local jurisdiction. The possibility that he would be disturbed in the possession of the premises under his lease as a result of the title passing from the owner in case of such owner’s failure to pay the taxes would be extremely remote, and such a situation would likely have no bearing on the general principle in question.”

The following statement from Volume IV, Moore’s *International Law Digest*, 670–671, is of interest in this connection:

“In reply to your letter of the 23rd ultimo, I have to say that the rule observed by this Government with respect to the taxation of property owned by a foreign government and occupied as its legation, is to accord reciprocity in regard to general taxation but not to specially exempt it from local assessments, such as water rent and the like, unless it were definitely understood that these taxes would also be exempted by the foreign government upon a piece of property belonging to the United States and used for a like purpose by our minister. . . .

“When a foreign legation occupies rented property in this country, the owner of the premises is not exempted from the payment of all lawful taxes.” (Mr. Bayard, Secretary of State, to Mr. Woolsey, April 15, 1886.)

In a circular instruction to diplomatic and consular officers the Department stated in part as follows:

“The taxes on the sales of automobiles and jewelry provided for in Sections 600 and 604 of the Revenue Act of 1924¹ are taxes imposed upon the manufacturers of automobiles and upon the vendors of jewelry. In the collection of such taxes the Government looks to the manufacturer and to the vendor for the payment of the tax and not to the purchasers of the articles. For this reason and the further reason that the price of the article sold is a matter of negotiation between the vendor and the purchasers, the appropriate authorities of this Government have taken the position that no exemption from the payment of those taxes can be granted to the manufacturer or vendor by reason of the fact that the sale is made to a diplomatic representative of a foreign government.”

The question submitted by the Legation of the Irish Free State would seem to be similar to the case of the sale of automobiles. The matter of the payment of the tax by the Legation is entirely a matter between the owner of the property and the Legation. If the payment of the tax is assumed under the lease it would seem that it would not be possible to give favorable consideration to the request of the Legation. As pointed out above, the owner of the premises would not be exempt from the payment of the taxes and if he finds it necessary to insert a provision in the lease whereby the Legation is required to assume the payment of the tax and the Legation signs such lease, that is a matter beyond the jurisdiction of this government to control.

¹ 43 Stat. 253, 322, 324.

JAPAN

DECLARATION BY JAPAN UPON RATIFICATION, ON JUNE 27, 1929, OF THE TREATY FOR THE RENUNCIATION OF WAR¹

711.9412Anti-War/79

The Chargé in Japan (Neville) to the Secretary of State

No. 1084

TOKYO, January 31, 1929.
[Received February 16.]

SIR: Referring to the Embassy's despatch No. 961 of September 24, 1928,² informing the Department that the Minseito, the principal opposition party, regarded as objectionable the phrase "in the name of the people",³ which appears in Article 1 of the Treaty to Renounce War, I have the honor to report that on the second day of the present session of the Imperial Diet (January 23rd) Mr. Keijiro Nakamura, a member of the Minseito, interpellated Baron Tanaka⁴ with respect to the phrase.

The content of Mr. Nakamura's somewhat lengthy speech was in brief as follows: Certain provisions of the Constitution show that the Emperor enjoys supreme power in Japan, namely, Article 4, which provides that "The Emperor is the head of the Empire, combining in himself the rights of sovereignty, and exercises them according to the provisions of the present Constitution", the second clause of Article 17 which reads, "The Regent shall exercise the powers appertaining to the Emperor in his name", and Article 57 which provides that "The judicature shall be exercised by the courts of law in the name of the Emperor". Two of these articles contain the phrase "in the name of the Emperor". It is only in a democratic or republican country that such rights rest with the people. Thus ratification of a treaty which contains the disputed phrase would mean an alteration of the Constitution. The Government in its anxiety to have the Treaty succeed regarded this point as of little consequence, apparently viewing the Treaty as more important than the State. Nor was any effort made to effect an amendment. Did the Government exchange notes with

¹ For correspondence relating to the treaty, see *Foreign Relations*, 1928, vol. I, pp. 1 ff.; text of pact, p. 153.

² Not printed.

³ Text of pact reads "in the names of their respective peoples"; *Foreign Relations*, 1928, vol. I, p. 155.

⁴ Japanese Prime Minister and Minister for Foreign Affairs.

the United States respecting this point and how has it protected the rights of Japan?

In reply Baron Tanaka stated that the Government understands the phrase to mean "for the sake of the State", that Japan held negotiations with the United States respecting the phrase, that the United States had made the meaning of the words clear, but that, as the treaty has not yet been ratified, these negotiations cannot at present be made public.

Mr. Nakamura, apparently still dissatisfied, then said that an annex should be attached to the treaty which would make clear, for the sake of the inviolability of the Constitution, that the phrase "in the name of the people" means "in the name of the Emperor". Baron Tanaka briefly repeated his first reply and added that the phrase in no way would affect the Constitution.

Since this interpellation no further mention of the Treaty to Renounce War has been made in the Diet. At present it seems unlikely that it will be seriously employed by the Opposition as it apparently feels there is material of a more forceful nature for attack upon which it is concentrating its energy. (Reference is made to despatch No. 1087 of January 31, 1929.)⁵ As the Privy Council and not the Diet advises the Emperor in treaty-making, it is doubtful if anything will occur in the Diet to influence Japan's attitude toward the Treaty. No information regarding the views of the Privy Council on the Treaty has reached the Embassy since those reported in despatch No. 977 of October 8, 1928.⁶ I shall not fail to inform the Department should any new developments in this respect arise.

I have [etc.]

EDWIN L. NEVILLE

711.9412Anti-War/82: Telegram

The Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, February 25, 1929—10 a. m.

8. Am exceedingly anxious to get Japan's ratification of the Multilateral Treaty before the fourth of March. I have informed the Ambassador that if they can deliver the ratification to you, you would cable it to me. Please see the Minister of Foreign Affairs and let me know what can be done. All countries have ratified except Belgium, France and Japan.

KELLOGG

⁵ Not printed; see despatch No. 1071, January 17, 1929, from the Chargé in Japan, especially footnote 9, vol. II, p. 126.

⁶ *Foreign Relations*, 1928, vol. I, p. 215.

711.9412Anti-War/83 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Тоkyo, February 26, 1929—5 p. m.
[Received February 26—10 a. m.]

14. Department's 8, February 25, 10 a. m. The Prime Minister has been in attendance at the Diet today and I have been unable to see him personally. The Vice Minister told me on his behalf that the Government was experiencing a good deal of difficulty with the multilateral treaty because of the phraseology "in the name of the people". This matter has been and is now the subject of interpellation in the House of Representatives and the Prime Minister feels that he could not possibly present the treaty to the Privy Council while its terms were the subject of political discussions in the Diet.

The Prime Minister told me some time ago that the phraseology was the subject of a good deal of question. He said that he had hoped to get the treaty through without any political discussion and he has assured me several times since the Japanese Government adhered to the pact last summer that the substance of the treaty would cause no difficulty whatever. Mr. Yoshida reiterated this statement today.

The Vice Minister for Foreign Affairs told me that he had had a long discussion and that the Prime Minister had had several discussions with political leaders in both branches of the Diet explaining that the treaty had no domestic significance and that the phrase "in the name of the people" was not an acceptance by Japanese Government of the theory that the Emperor is the agent and not the sovereign of Japan. He said that the Government was hopeful of avoiding any resolutions on the subject of the treaty by either branch of the Diet but until the possibility of this occurring had been eliminated the Prime Minister would not be able to ask its consideration by the Privy Council. He added that while the Japanese Government did not make the request at the moment it might become necessary to ask the American Government's permission to use the correspondence between the Secretary of State and the Japanese Chargé.⁷

I am completely satisfied that the Government is prepared to do all that it can to obtain speedy ratification. The political position of the present Government, however, while not precarious, is by no means an easy one, as it is faced with severe opposition to some of its tax proposals in the House of Peers. The political temper of the Diet at the moment is such that almost any pretext may be seized upon to make trouble for the administration. An attempt on the part of the

⁷ Exchanged prior to the signature of the treaty. See memorandum of June 23, 1928, by the Chief of the Division of Western European Affairs and telegrams of July 6 and 20, 1928, to and from the Chargé in Japan, *ibid.*, 1928, vol. I, pp. 96, 103, 123.

Prime Minister to obtain ratification of this treaty while the Diet is discussing it would arouse antagonism both in the Diet and in the Privy Council.

I shall take early occasion to discuss this matter further with Baron Tanaka.

NEVILLE

711.9412Anti-War/85 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, February 28, 1929—1 p. m.

[Received February 28—4:48 a. m.]

15. My No. 14, February 26, 5 p. m. Baron Tanaka sent word to me late yesterday afternoon that he had nothing to add to what Mr. Yoshida had told me except that he would do the best he could to obtain ratification of the multilateral treaty at an early date. He could not say just when this would be possible because the Privy Council, upon whose advice the Emperor ratifies treaties, is jealous of its prerogatives and inclined to resent discussion of treaty by the Diet and would not take action while there were any interpellations on a treaty pending in the latter body. He could not say when the treaty could be brought before the Privy Council but in view of present conditions, although he would make every effort, he could not promise to obtain ratification before March [4].

NEVILLE

711.9412Anti-War/93 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, March 9, 1929—6 p. m.

14. Trying to get the Japanese to act on the ratification of the Paris peace pact has rather discouraged me, and I am not able to get any assurance from them that they intend to act at any time within the near future. If Japan could ratify before I leave office about March 25 or 26, I would accept a telegraphic copy of their ratification and later substitute their original.

On March 7 I intimated to the Japanese Ambassador that, should Japan not intend to ratify the pact within the near future, I might be forced to request the other Powers to sign a protocol putting the treaty into effect without Japanese ratification.

KELLOGG

711.9412Anti-War/94 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

[Paraphrase]

Tokyo, March 11, 1929—4 p. m.

[Received March 11—9:10 a. m.]

24. Department's 14, March 9, 6 p. m. To assume that the Japanese Government is not disposed to take steps to ratify the Paris Pact would be, I think, a mistake. On the morning of March 9 I saw the Prime Minister, Baron Tanaka, who said there was no cause to worry over the ultimate outcome, but that the Foreign Office would inform me regarding developments. Today again I saw the Vice Minister for Foreign Affairs; and Mr. Yoshida, replying to my inquiries, said his Government was anxious for ratification of the treaty without reservations; members of the Privy Council, as matters stand now, have insisted that there should be attached to the treaty a reservation clarifying Japan's position regarding the phrase "in the names of their respective peoples". The Japanese Government, objecting to reservations, above all has no wish to yield to interference with treaty matters by the Diet.

Japanese ratification may, I believe, be counted upon as soon as members of the Privy Council are satisfied there is not involved any question affecting the Japanese Constitution. How long this will take, it is impossible to predict; but, especially if the session of the Diet is not prolonged, I do not believe it will be more than a few weeks. The delay has been caused by a combination of political hostility in the Diet to the Government and of genuine constitutional doubts concerning the treaty in the Privy Council (reference my telegram 20, March 7, 4 p. m.^s). The Government would not do itself any good by an attempt to coerce the Privy Council, an independent body, into acting soon and easily might lay itself open to a charge that it is acting without regard to Japanese constitutional procedure at foreign instigation.

NEVILLE

711.9412Anti-War/96

Memorandum by the Secretary of State

[WASHINGTON,] March 14, 1929.

The Japanese Ambassador called today and I informed him that Belgium had ratified the treaty for the renunciation of war and that the ratification would arrive here by mail on the twenty-fourth of

^s Not printed.

March, which would be several days before I go out of office. I also told him that France had informed me that the Senate would vote this week and her ratification would be here about the same time and that this would leave only Japan, which I regretted very much because of the fact that Japan had been one of the first to signify her willingness to sign the treaty. He said he was going to wire his Government again.

711.9412Anti-War/97 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, March 18, 1929—1 p. m.

20. *Chicago Daily News* prints special cable from B. W. Fleisher dated Tokyo March 15 stating Premier Tanaka had on day before in reply to interpellations declared in regard to the Kellogg Treaty "that Japan has taken the necessary steps for the ratification and emphasized that the pact contained no provision running counter to the Constitution."

Please inform me at once by telegram whether I am to understand from this that steps have been taken at Tokyo for ratification of the treaty.

[Paraphrase.] If the statement above is untrue, I should like you to see the Minister for Foreign Affairs and tell him that some adhering countries are pressing me for information regarding the time the treaty goes into effect and it has been suggested that the treaty be at once put into effect through signing by the fourteen powers of a protocol. While the United States has a right to follow this course without Japanese consent, I am very solicitous concerning sentiment in Japan and desire its entire cooperation and, with regard to the above, any suggestions which the Prime Minister may have to make. [End paraphrase.]

KELLOGG

711.9412Anti-War/98 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, March 19, 1929—11 a. m.

[Received March 19—2:11 a. m.]

25. Department's March 18, 1 p. m. The *News* as quoted is incorrect. The Prime Minister or some parliamentary representative of the Government is constantly being questioned in the Diet. On the 14th the Prime Minister in reply to a question stated briefly that the Government is taking the necessary procedure to ratify the treaty and believes that it contains nothing contrary to the Constitution. This is the stock answer to all such questions. The *Daily News* man evi-

dently got hold of a wrong translation that day and thought it was something new.

As I have previously explained, the Government desires to avoid discussing the treaty in the Diet.

I shall telegraph further in regard to the instruction.

NEVILLE

711.9412Anti-War/99 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

[Paraphrase]

Tokyo, March 20, 1929—4 p. m.

[Received March 20—10:40 a. m.]

26. Department's 20, March 18, 1 p. m. Yesterday and again today I saw the Vice Minister for Foreign Affairs. Mr. Yoshida told me, on behalf of the Prime Minister, that the Japanese Government hopes to have the Paris Pact ratified at the latest by the middle of April. For the past week Baron Tanaka has been conferring with different Privy Councilors, and again I was assured of ultimate ratification not being in doubt, but members of the Privy Council require delicate handling and the Government does not wish to request ratification by this body so long as questions regarding the treaty are pending in the Diet.

In response to my statement that some adhering countries are pressing the Secretary of State for information concerning the time the treaty goes into effect, Mr. Yoshida said he appreciated this fact and regretted not being able to give an earlier date, but the Japanese Government would do all in its power to advance the date. Further, he said the Government would, depending on the Diet's closing date, submit the treaty to the Privy Council either at the end of March or in the first week of April.

On March 22 I shall see the Prime Minister. In my view, there can be no doubt regarding Japanese sentiment being strongly favorable to the treaty. I deem as most unfortunate the suggestion to have the treaty put into effect without Japan's adherence and before the constitutional requirements have been complied with here. May I earnestly urge serious consideration prior to action.

At the time of the negotiation of the treaty, the Japanese urged with regard to article I an alteration of phraseology, but they yielded to American explanations and representations, though they knew this would cause difficulty in getting ratification. The foreseen situation has arisen, and I know that action depriving Japan of its position as one of the original adherents of the Paris Pact would be resented deeply. Since the opposition to the phrase is not academic, the Government by accepting it at American instance has been placed in

an embarrassing position. I beg that no step be taken implying any doubt of American belief in the good faith of the Japanese Government, for the treaty's purpose is so indissoluble that its launching should not be spoiled through the wounding of the feelings of a principal signatory.

NEVILLE

711.9412Anti-War/100 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, March 20, 1929—6 p. m.

21. Your 26, March 20, 4 p. m. I shall not do anything to put the treaty into effect among the fourteen powers. As I understand the nature of the Japanese difficulties and that the treaty will be ratified undoubtedly some time in April, I would take no steps likely to offend or embarrass Japan.

On June 23, 1928, my attention was called by the Japanese Chargé⁹ to the language of the treaty as not in accordance with the Japanese Constitution. I prepared a memorandum which explained the meaning and gave the definitions of this language in English and French; a copy was sent to you.¹⁰ So far as I was ever aware, the Japanese were satisfied by this, because in the note handed to you on July 20,¹¹ in which they accepted the final draft, no mention was made of the point and the phraseology is used as follows:¹²

“In reply, I have the honor to inform you that the Japanese Government are happy to be able to give their full concurrence to the alterations now proposed, their understanding of the original draft submitted to them in April last being, as I indicated in my note to His Excellency, Mr. MacVeagh of 26 May, 1928, substantially the same as that entertained by the Government of the United States. They are therefore ready to have prepared instruments [*to give instructions*] for signature, on that wording [*footing*], of the treaty in the form in which it is now proposed.”

The alterations here referred to pertained to the preamble and not to this particular point, so that no intimation was ever given me that the statement made in my memorandum of July 6, 1928, was not entirely satisfactory.

KELLOGG

⁹ See memorandum by the Chief of the Division of Western European Affairs June 23, 1928, *Foreign Relations*, 1928, vol. I, p. 96.

¹⁰ See telegram No. 73, July 6, 1928, 6 p. m., to the Chargé in Japan, *ibid.*, p. 104.

¹¹ See telegram No. 88, July 20, 1928, 6 p. m., from the Chargé in Japan, *ibid.*, p. 123.

¹² Quotation not paraphrased.

711.9412Anti-War/101 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, March 22, 1929—4 p.m.

[Received March 22—8:50 a.m.]

30. Department's telegram 21, March 20, 6 p.m. I saw the Prime Minister this afternoon. He asked me to convey to you his sincere regrets that he finds he is unable to have ratification of the treaty sooner; he said that the pressure of business in the Diet and other political complications had made it inadvisable to submit the treaty to the Privy Council up to date. He said that the treaty would be given to the Privy Council at their meeting after the close of the Diet and that he hoped to get it ratified by the middle of April. He asked me to convey to you his personal congratulations on your successful administration.

NEVILLE

711.9412Anti-War/108 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, April 6, 1929—1 p. m.

[Received April 6—6:26 a. m.]

38. Embassy's telegram 30, March 22, 4 p. m. The Vice Minister for Foreign Affairs told me today that the Government was still experiencing difficulty with the Privy Council in regard to the phrase "in the names of their respective peoples". He said that some of the members were insisting that the Government make a public declaration in regard to the phrase at the time of ratification while others were of the opinion that the Privy Council should insist upon a reservation by Japan in respect to that phrase. He said that while the Government was hopeful that Privy Council would not make any reservation, he was unable to give me positive assurance in this regard. He said that the Privy Council would probably act this week and that he would notify me immediately of its decision.

The Privy Council is at present composed of 37 members, 11 of which represent the Government. I believe that the Government would have no very great difficulty in obtaining 8 non-Government members to vote with it, if it becomes a question of a fight on the treaty. It would be unprecedented however for the Privy Council to have a division on a treaty question and the Government is evidently anxious to avoid it. Consequently, the Prime Minister is trying to arrange matters privately beforehand so that there will be no contest at the meeting of the Council.

NEVILLE

711.9412Anti-War/112

*Memorandum by the Secretary of State*¹³

[WASHINGTON,] April 25, 1929.

The Japanese Ambassador called to pay his respects and to say that they were very sorry that they had not yet been able to ratify the Kellogg Pact but that they hoped to do so in a few weeks. I told him that I knew of his difficulties for I had talked it over with Baron Tanaka, the Prime Minister, in Tokyo, on my way to Washington, but I hoped that they would do so as quickly as possible as I was anxious to notify Mr. Kellogg that the entire treaty was in operation.

711.9412Anti-War/111

*Memorandum by the Assistant Secretary of State (Castle)*¹⁴

[WASHINGTON,] April 26, 1929.

MR. SECRETARY: The Japanese Ambassador, this morning, gave me the attached paper personally and confidentially. He says that the psychological moment has arrived when the Privy Council will submit to the Emperor for ratification the Kellogg Pact. At the time of ratification, the Emperor will, however, issue the attached declaration which, in the opinion of the Japanese, is neither a reservation nor an amendment. It is, of course, entirely for home consumption. For this reason, as the Ambassador pointed out, the Japanese Government feels that the declaration is not really open to negotiation with this Government as to form but he says, nevertheless, that if we feel that it would not affect the Treaty, it might be helpful. The Ambassador says that the three irreconcilables on the Privy Council have agreed to this form.

I have discussed the matter with Mr. Hackworth.¹⁵ He says that, in his opinion, it does not affect the Treaty and that we could not properly raise any objection. The Ambassador asked that he be informed today whether the Department would offer any objection. He says the matter is exceedingly urgent because he is sure the Treaty can be put through within the next two or three weeks at the latest if this declaration can be issued at the same time.

W. R. C[ASTLE], JR.

¹³ Henry L. Stimson replaced Frank B. Kellogg as Secretary of State on March 28, 1929.

¹⁴ Marginal notation by Assistant Secretary Castle reads: "After talking with the Secretary I telephoned the Japanese Ambassador that this Department offered no objection to the declaration as drafted."

¹⁵ Green H. Hackworth, Solicitor of the Department of State.

[Annex]

The Japanese Embassy to the Department of State

DECLARATION

In view of the apprehension that the phrase "in the names of their respective peoples" in Article 1 of the Treaty for the Renunciation of War, signed at Paris on August 27, 1928, may convey a suggestion of incompatibility with the provisions of the Imperial Constitution, the Japanese Government declare that, so far as Japan is concerned, the said phrase is understood as having no application in any constitutional signification.

711.9412Anti-War/126

Memorandum by the Assistant Secretary of State (Castle) ¹⁶

[WASHINGTON,] May 15, 1929.

THE SECRETARY: The Japanese Ambassador came to see me this morning to say that the dispute over the phrase "in the names of their respective peoples" in the Kellogg Treaty continues unabated in Japan. . . . The Ambassador says that, unfortunately, the declaration which the Department had already approved has been found to be unsatisfactory to some members of the Privy Council and that they, therefore, will have the Treaty ratified but with a different declaration, the text of which is attached.¹⁷ He did not ask me whether the Department approved of the text because I am sure he knew that we should not approve. He merely said that he was exceedingly sorry and that it was the best which could be accomplished. He says that when the deposit of ratification is made in Washington, he will, of course, give us with the deposit the attached declaration, at the same time asking whether this Government will be good enough to transmit it to the other Governments who were original signatories of the Treaty. I told him that the new text came, in my opinion, very close to a reservation. He said that the word "reservation" was as hard to define as the phrase "in the names of their respective peoples" but he felt this declaration was in no way a reservation on the part of Japan to the spirit of the Treaty but merely a reservation as to a single phrase of the text.

(It may be that this declaration will delay the Treaty from becoming effective until we can hear from the Governments signatory to the

¹⁶ Marginal notation by the Secretary of State reads: "On first blush I am inclined to think this w'd not affect the contractual part of the treaty and w'd therefore not be a reservation. H[ENRY] L. S[TIMSON]"

¹⁷ Same as text quoted in telegram No. 64, June 19, 1929, 7 p. m., from the Chargé in Japan, p. 248.

Treaty. I cannot conceive, however, that any of those Governments would raise opposition.)

W. R. C[ASTLE], JR.

711.9412Anti-War/125

Memorandum by the Secretary of State

[WASHINGTON,] June 11, 1929.

The Japanese Ambassador came to say that he was glad to be able to tell me that the Government had sent to the Emperor yesterday, I believe, the Kellogg Pact for ratification. The Emperor would submit it at once to the Privy Council and the Privy Council was expected to finish its deliberations on the subject sometime between June twentieth and twenty-fifth, and he thus thought that this matter was on a fair way to its immediate completion and was very glad to inform me of the fact. I expressed my pleasure at hearing this and told him that I would notify Mr. Kellogg. He told me that he was on the point of notifying Mr. Kellogg himself.

711.9412Anti-War/132 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, June 19, 1929—7 p. m.

[Received June 19—9:10 a. m.]

64. Embassy's telegram 62, June 11, noon.¹⁸ The Prime Minister asked me to call on him this afternoon. He told me that the investigation committee of the Privy Council had accepted the following declaration:

"The Imperial Government declare that the phraseology, 'in the names of their respective peoples,' appearing in article 1 of the Treaty for the Renunciation of War, signed at Paris on August 27, 1928, viewed in the light of the provisions of the Imperial Constitution, is understood to be inapplicable in so far as Japan is concerned",

and the following phraseology for the instrument of ratification:

"By the grace of Heaven, Emperor of Japan, seated on the Throne occupied by the same Dynasty changeless through ages eternal,
To all to whom these presents shall come, greeting!

Having examined the Treaty for the Renunciation of War, signed at Paris by Japanese plenipotentiary, together with the plenipotentiaries of the powers concerned, on the 27th day of August, 1928, regarding which treaty the Japanese Government on the (blank) day of the (blank) month of the 4th year of Showa issued a declaration concerning a phrase contained in the first article thereof, We, maintaining the said declaration, approve, accept and ratify the same.

¹⁸ Not printed.

In faith whereof, we have signed this instrument and caused the Great Seal of the Empire to be affixed thereto at (blank), this (blank) day of the (blank) month of the 4th year of Showa, being the two thousand [five hundred] and eighty-ninth year from the enthronement of the Emperor Jimmu."

He said that this would be presented to a plenary session of the Privy Council at which the Emperor would preside, on the 26th instant, and that while it would unquestionably be approved he could not officially inform me of the ratification of the pact until after the full meeting of the Privy Council and actual ratification by Emperor. He asked me to communicate this confidentially to my Government.

He said that the wording of the instrument [of] ratification had been the cause of much difficulty, not because of the substance of the treaty but because of the peculiar phraseology of the Japanese Constitution. He assured me that the Japanese Government and people were in full accord with the substance of and objects of the treaty, and that it was a matter of regret to him that so few of his countrymen were fully conversant with foreign languages, which caused great difficulty in matters of treaty phraseology. He felt, however, that in view of the sincere opinions held in Japan on questions touching the Emperor's prerogative, the Government would have to give consideration to them. He wished to make it plain that the Japanese Government adhered fully and completely to the substance of the treaty and that the declaration and the form of the instrument of ratification did not imply any reservation to the treaty. He further requested that his conversation with me and the declaration and instrument of ratification be kept confidential until formal notice of ratification was given.

NEVILLE

711.9412Anti-War/134

Memorandum by the Secretary of State

[WASHINGTON,] June 24, 1929.

The Chinese Minister came in to present what he considered a rather serious matter in regard to the Kellogg Pact and he presented it in written form as follows:

"During the recent discussion of the Kellogg Pact in the Japanese Privy Council, the Government was asked why it made no mention of the right of self-defence vis-a-vis Manchuria and Mongolia. The Government replied that a broad interpretation of the right of self-defence allowed the exercise of that right when Japan's special interests were affected even though those special interests be outside the territory of the Japanese Empire, and that therefore no reservation regarding Manchuria and Mongolia was necessary."

I told him that I had heard nothing of any such matter being raised. He asked whether the correspondence gave any light on the interpre-

tation of the right of self-defence and I told him that I could not say but that I would have the matter looked up and the result called to his attention at some later time. Will the appropriate officer of the Department kindly attend to this?

H[ENRY] L. S[TIMSON]

711.9412Anti-War/139

Memorandum by the Secretary of State of a Conversation With the Japanese Ambassador (Debuchi)

[WASHINGTON,] June 28, 1929.

The Ambassador called to see me, by special appointment at his own request and under instructions from his Government, to bring the announcement of the ratification of the Kellogg-Briand Pact by the Emperor of Japan and handed to me a letter, dated June 27, 1929, signed by himself on that point;¹⁹ also a copy of the declaration of the Imperial Government of Japan as to the phraseology "in the names of their respective peoples".²⁰ This last memorandum was in both Japanese and in English. He said that in his opinion this did not amount to a reservation. I told him that I hoped that that would be the interpretation of everybody, but I added that I had not yet studied it sufficiently to be confident of my own opinion. We exchanged congratulatory words. He told me, also, that there were two short messages as to this declaration which he had left with Mr. Castle which were being published in Japan.

711.9412Anti-War/158

Memorandum by the Assistant Chief of the Division of Far Eastern Affairs (Peck)

[WASHINGTON,] July 19, 1929.

1. On June 24, 1929, the Chinese Minister, in conversation with the Secretary of State, presented a written account of a discussion said to have been held in the Japanese Privy Council, in which the Japanese Government was said to have stated that "a broad interpretation of the right of self-defense allowed the exercise of that right when Japan's special interests were affected even though those special interests be outside the territory of the Japanese Empire, and that therefore no reservation regarding Manchuria and Mongolia was necessary" in connection with the Pact. The Chinese Minister asked the Secretary whether the correspondence gave any light on the interpretation of the right of self-defense.

¹⁹ Not printed.

²⁰ See telegram No. 64, June 19, 1929, 7 p. m., from the Chargé in Japan, p. 248.

2. The records of the Department contain no authoritative account of the reported discussions in the Japanese Privy Council referred to above. It is doubtful whether any such authoritative account is accessible to anyone outside of the highest circles of Japanese officials. There is, therefore, no basis for any discussion of what any official of the Japanese Government may have said in a meeting of the Privy Council.

3. An answer to the question asked by the Chinese Minister may be sought in the correspondence published in a pamphlet entitled "The General Pact for the Renunciation of War—Text of the Pact as Signed—Notes and Other Papers", printed by the United States Government Printing Office in 1928. It is believed that a copy of this pamphlet has been supplied to the Chinese Minister. The attention of the Chinese Minister may be invited to certain illustrative passages in the correspondence. A list of these passages is attached to this memorandum.

4. There seems to be a general agreement that there is nothing in the Pact which restricts or impairs in any way the right of self-defense (see, for instance, the note of the American Government of June 23, 1928).²¹ It is in connection with the circumstances leading up to the necessity for self-defense that the Pact becomes important. Before any question of self-defense can arise, there must be some action which can be construed as an attack. The Pact seeks, very logically, to obviate all occasion for military self-defense by providing that "the High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means." Disputes and conflicts may arise from various causes. Occasionally they are caused by some unauthorized method of employing armed forces, but it is believed that disputes more commonly have their origin in actual or alleged violations of international undertakings. A dispute concerning performance of obligations is preeminently one that is susceptible of settlement by pacific means, since it generally revolves about a difference of opinion in regard to the nature of the obligations. By enjoining "pacific means" for the settlement of a dispute in regard to international obligations, the Pact would seem to forbid unilateral repudiation of a treaty or other contractual undertaking, especially if such repudiation is enforced by the use of police or of troops. The country using police or troops to give effect to its repudiation of a treaty could not claim that its action was "pacific" simply because these forcible measures were taken within

²¹ See telegram No. 179, June 20, 1928, 6 p. m., to the Ambassador in France, *Foreign Relations*, 1928, vol. I, p. 90.

its own boundaries and did not result in the invasion of foreign territory. If a country at any time finds that one of the international agreements to which it has subscribed is distasteful or harmful, it must exhaust all reasonable "pacific means" for altering or terminating the agreement, with the concurrence of the other party, before it can, with any reason, assert that forcible repudiation is an act of self-defense.

5. The correspondence does not seem to define the nature of the self-defense that is permissible. It seems clear, however, that the vital interests of a nation may be threatened without actual invasion of its territory. For instance, in the hearings before the Committee on Foreign Relations of the United States Senate on December 7, 1928, Secretary Kellogg said: "Certainly; the right of self-defense is not limited to territory in the continental United States, for example. It means that this Government has a right to take such measures as it believes necessary to the defense of the country, or to prevent things that might endanger the country; but the United States must be the judge of that, and it is answerable to the public opinion of the world if it is not an honest defense; that is all." Mr. Kellogg also said: "I apprehend that the United States has got interests, the peace and security of which are necessary to the defense of the United States. Take the Canal Zone. Self-defense, as I said, is not limited to the mere defense, when attacked, of continental United States. It covers all our possessions, all our rights; the right to take such steps as will prevent danger to the United States."

6. Incidentally, it seems true that when a dispute occurs between two of the contracting Powers, no third Power incurs, under the Pact, any legal obligation to contribute to the settlement of the controversy. Secretary of State Kellogg said to the Senate Committee on Foreign Relations in the hearings held December 7, 1928, that, if other countries had believed there were any obligations imposed on the United States beyond the agreement not to go to war, he thought they would have suggested it. He said they knew, from the notes that he had written, that he was not willing to impose any obligation on the United States. He said that he knew that was out of the question and that not many countries would agree to affirmative obligations if the United States did. However, all of the Powers participating in the Pact, by virtue of the promise given by them, seem to have acquired the right to expect that the other Powers shall live up to the agreement, and the right to make friendly representations to that end.

7. The General Pact for the Renunciation of War is so new and its provisions are so simple that time must elapse before the nations can come to a common understanding in regard to its practical application to different sets of circumstances. There is no nation or combination of nations, unless it be the entire group of High Contracting

Powers, that can authoritatively interpret it, as the Supreme Court interprets the Constitution of the United States. The situation in South Manchuria is especially complicated. Under international agreements, Japan is authorized to maintain troops in South Manchuria, which is Chinese territory, and, by inference, to use them. If Japan is thus authorized to use force to protect what it construes as its rights under these international agreements, and to consider such use of force "pacific", is China to be debarred from the use of its own forces in its own territory to protect what it regards as China's rights, on the ground that to do so would not be "pacific"? Apparently the best reply to make to the Chinese Minister's question is to refer him to the published correspondence and to subsequent correspondence, with the suggestion that he draw his own conclusions.

W. R. P[ECK]

[Annex]

Memorandum by the Assistant Chief of the Division of Far Eastern Affairs (Peck)

[WASHINGTON,] July 19, 1929.

ILLUSTRATIVE PASSAGES DEALING WITH THE QUESTION OF THE RIGHT OF SELF-DEFENSE FOUND IN CORRESPONDENCE BETWEEN CERTAIN POWERS SIGNATORY TO THE GENERAL PACT FOR THE RENUNCIATION OF WAR

1. The French Ambassador to the Secretary of State, March 30, 1928, page 17, the paragraph beginning "My Government likewise gathers".²²
2. The German Minister of Foreign Affairs to the American Ambassador, April 27, 1928, page 24, the paragraph beginning "The German Government proceeds".²³
3. The British Secretary of State for Foreign Affairs to the American Ambassador, May 19, 1928, page 26, paragraph 4.²⁴
4. The Japanese Minister for Foreign Affairs to the American Ambassador, May 26, 1928, page 31, the paragraph beginning "The proposal of the United States is understood".²⁵
5. The British Secretary of State for Foreign Affairs to the American Chargé d'Affaires, June 15, 1928, page 35, the paragraph beginning "In expressing their willingness to be a party to the proposed treaty, His Majesty's Government in the Union of South Africa took it for granted".²⁶

²² *Foreign Relations*, 1928, vol. I, p. 15.

²³ *Ibid.*, p. 42.

²⁴ See telegram No. 114, May 19, 1928, 1 p. m., from the Ambassador in Great Britain, *ibid.*, p. 66.

²⁵ See telegram No. 66, May 26, 1928, 11 a. m., from the Ambassador in Japan, *ibid.*, p. 75.

²⁶ *Ibid.*, p. 89.

6. Note of the Government of the United States to certain other governments, June 23, 1928, page 36, paragraph beginning "(1) Self-Defense."²⁷ In the same document, page 38, the second paragraph.

7. The Polish Vice Minister for Foreign Affairs to the American Minister, July 8 [17?] 1928, page 42, the last paragraph.²⁸

8. The French Minister of Foreign Affairs to the American Ambassador, dated July 14, 1928, page 44, the paragraph beginning "Nothing in the new treaty restrains".²⁹

9. The Italian Minister of Foreign Affairs to the American Ambassador, July 15, 1928, page 46, the second paragraph.³⁰

10. The Belgian Minister of Foreign Affairs to the American Ambassador, July 17, 1928, page 46, the paragraph beginning "The text prepared".³¹

11. The British Secretary of State for Foreign Affairs to the American Chargé d'Affaires, page 48, the paragraph beginning, "I am entirely in accord".³²

12. The British Secretary of State for Foreign Affairs, on behalf of the Commonwealth of Australia, to the American Chargé d'Affaires, July 18, 1928, page 49, paragraph 2.³³

13. The Czechoslovak Minister of Foreign Affairs to the American Minister, July 20, 1928, page 52, paragraph 3.³⁴

711.9412Anti-War/177

The Japanese Ambassador (Debuchi) to the Secretary of State

No. 92

WASHINGTON, July 24, 1929.

SIR: I have the honor, under instructions from my Government, to transmit herewith to you the Declaration of the Imperial Government made on June 27 of this year, concerning the phraseology "in the names of their respective peoples", appearing in Article 1 of the Treaty for the Renunciation of War, signed at Paris on August 27, 1928. The Declaration was made for the purpose of dispelling any doubt in relation to the Constitution of Japan, elucidating, as it does, the construction placed by the Japanese Government on the phraseology in question.

²⁷ See telegram No. 179, June 20, 1928, 6 p. m., to the Ambassador in France, *Foreign Relations*, 1928, vol. I, p. 90.

²⁸ *Ibid.*, p. 119.

²⁹ See telegram No. 193, July 14, 1928, 5 p. m., from the Ambassador in France, *ibid.*, p. 107.

³⁰ See telegram No. 72, July 15, 1928, 2 p. m., from the Ambassador in Italy, *ibid.*, p. 108.

³¹ *Ibid.*, p. 117.

³² Dated July 18, 1928, *ibid.*, p. 112.

³³ *Ibid.*, p. 114.

³⁴ See telegram No. 62, July 20, 1928, 10 a. m., from the Minister in Czechoslovakia, *ibid.*, p. 121.

I am further instructed to request you to be so good as to send a copy of this note and of the Declaration above mentioned to each of the other High Contracting Parties concerned.

Accept [etc.]

K. DEBUCHI

[Enclosure]

The Japanese Embassy to the Department of State

DECLARATION

The Imperial Government declare that the phraseology "in the names of their respective peoples", appearing in Article I of the Treaty for the Renunciation of War, signed at Paris on August 27, 1928, viewed in the light of the provisions of the Imperial Constitution, is understood to be inapplicable in so far as Japan is concerned.

JUNE 27, 4 SHOWA (1929).

711.9412Anti-War/156

The Secretary of State to the Japanese Ambassador (Debuchi)

WASHINGTON, July 24, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of July 24, 1929, transmitting the Declaration of the Imperial Government made on June 27 of this year that the phraseology "in the names of their respective peoples", appearing in Article I of the treaty for the renunciation of war, signed at Paris on August 27, 1928, viewed in the light of the provisions of the Imperial Constitution, is understood to be inapplicable in so far as Japan is concerned.

Note is taken of your statement that the Declaration was made for the purpose of dispelling any doubt in relation to the Constitution of Japan, elucidating, as it does, the construction placed by the Japanese Government on the phraseology in question.

I shall be happy, in compliance with the request which you make in your note to send a copy thereof, together with a copy of the Declaration, to each of the other High Contracting Parties, as well as to each of the Governments which have adhered or which may hereafter adhere to the treaty.³⁵

Accept [etc.]

HENRY L. STIMSON

³⁵The treaty was proclaimed by the President of the United States on July 24, 1929.

711.9412Anti-War/157

The Secretary of State to the American Diplomatic Officers Accredited to Governments Which Have Ratified or Which Have Definitely Adhered to the Treaty for the Renunciation of War

WASHINGTON, July 31, 1929.

SIRS: On depositing, on July 24, 1929, the instrument of ratification by His Majesty the Emperor of Japan of the treaty for the renunciation of war, the Japanese Ambassador at Washington handed to the Secretary of State a note covering a Declaration of the Imperial Government, made on June 27 of this year, stating that the phraseology "in the names of their respective peoples", appearing in Article I of the treaty, viewed in the light of the provisions of the Imperial Constitution, is understood to be inapplicable in so far as Japan is concerned.

A copy of the Japanese Ambassador's note and a photostatic copy of the Declaration are herewith enclosed for transmission by you to the Governments to which you are respectively accredited, in conformity with the request made by the Ambassador in his note.

I am [etc.]

H. L. STIMSON

OBJECTION BY JAPAN TO VISITS OF AMERICAN NAVAL VESSELS TO UNOPENED PORTS ON ISLANDS UNDER MANDATE TO JAPAN

811.3394/90

The Chargé in Japan (Neville) to the Secretary of State

No. 1156

Tokyo, April 25, 1929.

[Received May 11.]

SIR: Referring to the Department's telegram No. 30 of April 10, 1929, 5 p. m., supplementing my telegram No. 40 of April 19, 1929, 4 p. m.,⁸⁶ regarding the proposed visits to certain Japanese mandated islands of the U. S. S. *Asheville*, I have the honor to transmit herewith a copy of my note No. 477 of April 12, 1929, sent to the Foreign Office in compliance with the Department's telegram under reference. No reply has been received from the Foreign Office but on April 19th Mr. Matsunaga, the Chief of the Treaty Bureau, called on me at the Embassy and said that he came on behalf of Mr. Yoshida, the Vice Minister.

He told me that the Foreign Office had referred our inquiry in regard to the desire of the United States Navy to send the U. S. S. *Asheville* to various ports and islands in the Japanese mandate territory to the South Seas Bureau of the Japanese Government. The

⁸⁶ Neither printed.

South Seas Bureau had stated that while they would be very glad to have a visit from the United States Man-of-War at any of the open ports, namely, Saipan, Angaur, Truck, and Jaluit, they could not see their way to welcoming visits of this kind to out of the way places because harbor accommodations were limited in these small islands, there were no pilots available, and these harbors or anchorages were difficult of approach and at times dangerous. I said that I would transmit this information, which I thought was rather disappointing, to the Navy.

After some desultory conversation in which I referred to our disappointment at the South Seas Bureau's decision—without any apparent effect on Mr. Matsunaga—he took his leave.

I have [etc.]

EDWIN L. NEVILLE

[Enclosure]

The American Chargé (Neville) to the Japanese Minister for Foreign Affairs (Tanaka)

No. 477

TOKYO, April 12, 1929.

EXCELLENCY: Under instructions from my Government I have the honor to inform Your Excellency that the United States Navy Department contemplates ordering the U. S. S. *Asheville* to leave Manila about April 25th for return to the United States via Guam and Honolulu and to visit for about three days in each case the following islands of the Japanese Mandate en route:

Angaur Island	April 30th
Oleai (or Ulie) Island	May 6th
Ujeland Atoll	May 21st
Kwajalong Atoll	May 26th
Udia Atoll	May 29th
Maloalab Kaoven	June 2nd
Wotje Atoll	June 5th

In bringing the foregoing to the notice of Your Excellency I was further instructed to inquire whether the proposed visits would be agreeable to the authorities concerned.

I avail myself [etc.]

EDWIN L. NEVILLE

811.3394/88 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, April 26, 1929—3 p. m.

36. Your 43, April 24.³⁷ Advise Foreign Office informally and orally that *Asheville* will not visit any Japanese mandated islands on her return to the United States from Manila.

STIMSON

³⁷ Not printed.

811.3394/96 : Telegram

The Acting Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, June 19, 1929—4 p. m.

56. United States Destroyer Division 38, consisting of the U. S. S. *John D. Edwards*, U. S. S. *Barker*, U. S. S. *Smith Thompson*, U. S. S. *Tracy*, U. S. S. *Borie* and U. S. S. *Whipple* will leave the United States on August 1, for the Asiatic station, departing from Honolulu on August 13. The Navy Department desires that they visit on or about August 19 for approximately two days in each case the following islands under Mandate of Japan en route: Jaluit, Wotje and Kwajalong.

Please take up with Foreign Office, requesting usual courtesies and facilities.

CLARK

811.3394/101 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, June 29, 1929—10 a. m.

[Received June 29—3:34 a. m.]

70. Department's 56, June 19, 4 p. m. Foreign Office informs me orally that the South Seas Bureau cannot see their way to granting permission to vessels to visit unopened ports. No objection to visiting Jaluit. List of open ports was given in my No. 40, April 19, 4 p. m.³⁸

NEVILLE

811.3394/125

The Secretary of State to the Chargé in Japan (Neville)

No. 630

WASHINGTON, October 23, 1929.

SIR: Reference is made to your despatch No. 1156 of April 25, 1929, in which you reported that, according to a statement made to you by a representative of the Foreign Office, the South Seas Bureau of the Japanese Government could not see their way clear to welcoming the visits of American vessels to places in the islands under mandate to Japan other than at the open ports.

Although the Department does not wish to raise with the Japanese Government the question of its legal right to exclude American naval vessels from those places in the Mandated Islands not open to foreign commerce, it is desired that the Embassy discuss the subject informally and discreetly with the Foreign Office at the first favorable opportunity with a view to bringing about a modification of the Japanese Government's attitude in regard to the matter.

³⁸ Not printed; but see his despatch No. 1156, April 25, p. 256.

It is noted that in your despatch under reference the reasons given by the South Seas Bureau for its decision were that "harbor accommodations were limited in these small islands, there were no pilots available, and these harbors or anchorages were difficult to approach and at times dangerous." You may explain that while the Navy Department appreciates the hesitation of the South Seas Bureau in permitting American naval vessels to expose themselves to danger on account of the lack of proper aids to navigation in the islands, it is of the opinion that if proper precautions are taken by the commanders of the vessels the visits of the character contemplated may be accomplished without unduly risking the safety of the vessels.

You may also explain to the Foreign Office that what the Navy Department has in mind is that from time to time as its vessels travel from one station to another between the West Coast of the United States and the Far East the opportunity be taken to obtain hydrographic information regarding the islands.

You may point out in this connection that a study of the records of this Government indicates that it has consistently made it a practice, whenever a foreign Government requests permission through diplomatic channels for any of its public vessels to visit a port under American jurisdiction, to grant such permission irrespective of whether the port in question is a port of entry for the purpose of foreign trade, except in the cases of certain military and naval ports publicly declared to be closed to foreign vessels.

It is surmised that there are other reasons than those mentioned by the South Seas Bureau for its attitude on this matter. The Department would be glad to learn your views in this regard and, in case the Japanese Government is still unwilling to accede to the request of the Navy Department, to receive any suggestions that may occur to you for overcoming possible objections on the part of the South Seas Bureau to the visits contemplated.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

811.3394/128

The Chargé in Japan (Neville) to the Secretary of State

No. 1366

TOKYO, December 16, 1929.
[Received January 3, 1930.]

SIR: I have the honor to refer to the Department's instruction No. 630 of October 23, 1929 in which I was directed to discuss informally with the Foreign Office the question of visits by American men-of-war to places in the islands under mandate to Japan not open to foreign commerce.

Since the receipt of the instruction under reference, I have had two opportunities to discuss this subject with the Vice Minister for Foreign Affairs. I told him that my Government did not wish to raise the question of legal right, but that the United States had consistently permitted foreign public vessels to visit all ports under its jurisdiction except such military or naval ports as are definitely closed to foreign vessels, and that we believed reciprocity in these matters was desirable.

The Vice Minister told me that the Japanese Government was by no means a unit on the policy of shutting up the islands, but that some of the departments were obsessed with notions of secrecy. In a subsequent interview he told me that the objection came principally from the South Seas Bureau. It seems that visits of foreign men-of-war proved disturbing to the native population of the islands; that these people associate visiting war ships, or foreign ships of almost any kind, with wars and governmental changes, and get very excited in consequence to the great disturbance of their own peace of mind, and that of the Japanese officials in those parts. He said that, of course, if the American Government insisted, and raised the legal question of treaty rights, the Japanese Government would have to consider the whole matter from that standpoint, but that the Japanese would be greatly obliged if we would not do so. I also learned that the Navy Department here does not like the idea of men-of-war visiting the Mandated Islands, but its opposition is not so decided, apparently, as that of the South Seas Bureau.

The fact of the matter appears to be that the administration of the Mandated Islands is proving troublesome and expensive. The Bureau concerned does not like to have foreign ships come to the out-of-the-way islands, largely because they are afraid that such visitors might carry away unfavorable impressions of conditions and publish or otherwise report them. The Navy wants to keep the islands segregated, if possible, not because there is anything much there, but out of a habit of secrecy to no very great purpose.

If it is desired to press the matter, there are, it seems to me, two methods of procedure, each of them somewhat troublesome: one, insist as a matter of treaty right, which will raise the whole question of mandates and our relation to them (but we could probably gain our point if worth while to do so); second, refuse permission to Japanese vessels to enter ports under our jurisdiction except such as they have a clear treaty right to enter. This would probably have a decided influence on the Japanese Navy; it would be a drastic step and a departure from our historic policy, but it very likely would be effective in the long run. As a final suggestion, it might be worth while for our delegation to the London Conference to take the matter up informally

with the Japanese, if occasion should arise (as it very well may) in connection with a discussion on ports and armaments in the Pacific.

I have [etc.]

EDWIN L. NEVILLE

811.3394/132

The Chargé in Japan (Neville) to the Secretary of State

No. 1386

TOKYO, December 31, 1929.
[Received January 18, 1930.]

SIR: I have the honor to refer to my despatch No. 1366, of December 16, 1929, in regard to visits of our men-of-war to the islands of the Pacific under mandate to Japan. I have now the honor to report that since my despatch under reference I have had a further interview with the Vice-Minister for Foreign Affairs on this subject.

The Vice-Minister told me that the Overseas Department had finally come to the conclusion to abide by whatever decisions the Navy Department made in this matter. The navy, he said, had informed the Department of Foreign Affairs that they would raise no objection whatever to visits by our men-of-war to those of the islands where Japanese officials are resident. He said that the navy would be glad if we would not ask to visit those islands where there are no Japanese officials because such visits are disturbing. I then asked him how we could know beforehand what these islands were. He suggested that whenever our men-of-war intended to visit any of the islands we inform the Japanese Government beforehand and that the Navy Department would then indicate what islands were open. It seems that there are part-time officials or officials who visit the smaller islands periodically and remain there for a few weeks or months at a time to clear up any administrative or judicial problems that may have arisen since the islands were last visited. I told him that I should report this change of attitude to my Government.

So far as hydrographic information is concerned, the Vice-Minister told me that the Navy Department was preparing charts and tables giving complete information of this kind.

This is a distinct advance upon the somewhat intransigent attitude displayed when the subject was first approached. I do not know whether it meets our views completely, but it is, I think, about as much as can be obtained at the present time. Aside from the fact that the Japanese would not welcome visits of foreigners to islands where there are no Japanese officials because the natives of the islands would get unduly excited and make the officials' next visit somewhat troublesome, the Japanese also have a feeling that it would be decidedly impolite on their part not to be able to welcome officially a foreign man-of-war

visiting any region where Japanese are supposed to administer the Government.³⁹

I have [etc.]

EDWIN L. NEVILLE

INFORMAL REPRESENTATIONS RESPECTING APPARENTLY DISCRIMINATORY FEATURES IN THE JAPANESE LUMBER TARIFF

694.113Lumber/26 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, March 22, 1929—5 p. m.

22. Your telegram No. 27, March 20, 5 p. m.⁴⁰ In view of the serious concern expressed by American lumber exporters regarding the effect which the proposed Japanese lumber tariff will have upon the American lumber trade with Japan, you are instructed to bring informally to the attention of the Japanese Government the fact that the proposed tariff provides for higher rates of duty upon the kinds of woods imported chiefly from the United States than upon Siberian products such as Kedar and Spruce, and to point out that, owing to the extent to which the latter can be substituted for American lumber, the proposed tariff would appear likely to constitute discrimination in fact against American products. You will therefore express the hope of this Government that American lumber products will not be placed on an unfavorable basis as compared with similar or competing products of other countries.

KELLOGG

694.113Lumber/27 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, March 23, 1929—1 p. m.

[Received March 23—4:05 a. m.]

31. Department's telegram 22, March 22, 5 p. m. Called on Vice Minister of Foreign Affairs and left with him following memorandum:

"In the bill to amend the tariff on lumber, kedar, a wood from continental Asia, appears to receive preferential treatment. This wood competes in the Japanese lumber market with woods of American origin upon which the proposed law imposes new or higher duties. Owing to the extent to which the Asiatic wood can be substituted for American lumber the proposed tariff would appear likely to constitute discrimination in fact against American products. It is hoped that American lumber products will not be placed on an unfavorable basis as compared with those of other countries."

³⁹ The procedure suggested respecting open or unopened ports in the Japanese mandated islands was subsequently followed.

⁴⁰ Not printed.

The Department will note that no mention is made of spruce or cedar. Siberian kedar is the only wood in whose favor claim of discrimination could well be made. The Commercial Attaché's office has already had two conferences with officials of Foreign Office. The Vice Minister took the memorandum and promised an investigation.

NEVILLE

694.113Lumber/85

The Chargé in Japan (Neville) to the Secretary of State

[Extracts]

No. 1139

TOkyo, April 4, 1929.

[Received April 29.]

SIR: I have the honor to refer to my telegram No. 35 of April 1, 1929,⁴¹ in which I reported the receipt of a reply from the Foreign Office to the Memorandum left with the Vice Minister for Foreign Affairs on March 23, 1929, which is enclosed herewith.

The statements in the Foreign Office Memorandum seem to be quite accurate so far as they go. At the present time kedar is not much of a competitor with American lumber so far as concerns total quantity of American woods consumed. It remains to be seen, however, whether this wood will not in the future become a serious competitor when not subject to the import tax imposed upon American lumber. The wood may become somewhat cheaper in price than the latter and may be substituted for American woods in much of the building in Japan.

I have [etc.]

EDWIN L. NEVILLE

[Enclosure—Translation]

The Japanese Ministry for Foreign Affairs to the American Embassy

No. 27/C1

The Department of Foreign Affairs are in receipt of the Memorandum of the United States Embassy, dated March 23rd, 1929, concerning the tariff on lumber, and have the honor to state in reply as follows:

1. In the Bill for the Revision of the Tariff on Lumber, the Tariff rates are differentiated according to the kind of woods, the differentiation being in no way concerned with the place of origin of woods. The woods covered by F-4, 1, Tariff No. 612 in the Bill, namely, the genus *Abies*, the genus *Picea*, the genus *Pinus* and the genus *Larix*

⁴¹ Not printed.

are produced not only in Eastern Asia, but in North America as well and in plenty (e. g., Noble Fir corresponding to the genus *Abies*; Spruce to the genus *Picea*; Sugar Pine, Western White Pine, Yellow Pine, etc., to the genus *Pinus*; and Larch to the genus *Larix*). It follows, therefore, that woods of American origin corresponding to the said four genera are all subject to the tariff rates under F-4 referred to above.

2. Kedar or Benimatsu belongs to the genus *Pinus* and happens not to be produced in the United States, but it is different from Douglas Fir and other North American lumber in nature and in the principal uses to which it is put. As a matter of fact, more than half the Benimatsu logs actually imported are made into ordinary boards 3 bu 5 rin (4.2 inches) to 6 bu (7.2 inches) in thickness and of other dimensions, and are used as floor boards, roof boards, for making doors and other fittings, etc. The remainder is used for making moulds, various kinds of wood-work, etc. Generally speaking, Benimatsu is a rival of Todomatsu of the genus *Abies* and of Ezomatsu of the genus *Picea*, both of which are produced in Eastern Asia.

3. As stated above, Kedar is limited in the uses to which it is put, and, unlike North American lumber, is not capable of being used for general purposes. Moreover, its imports amount to no more than between 500,000 and 700,000 koku* a year, viz, only 6 per cent. on the total imports of North American lumber. Nor can any future increase be expected in the imports of Kedar, when consideration is given to the condition of forests in the place where it is produced and to the uses which are made of this wood. In consequence, Kedar is worthy of no particular consideration even from the viewpoint of protecting Japanese forestry.

4. For the reasons set forth in the foregoing, American lumber is not considered likely to suffer particularly from the importation of Kedar. It will have been clearly seen that the tariff in question is not designed to constitute any discrimination against American lumber in respect of Kedar, either in form or in fact.

TOKYO, March 30, 1929.

694.113Lumber/107

The Secretary of State to the Chargé in Japan (Neville)

No. 588

WASHINGTON, August 1, 1929.

SIR: Reference is made to your despatch No. 1139 of April 4, 1929, transmitting a translation of a memorandum addressed to you by the Foreign Office on March 30, 1929, in reply to a memorandum left by you with the Vice Minister for Foreign Affairs on March 23 in regard

*1 koku equals 120 board feet. [Footnote in the original.]

to the apparently discriminatory treatment to which American lumber is subjected in the new Japanese lumber tariff. The Department has also received your despatch No. 1203 of June 15, 1929,⁴² containing your own comments on this situation.

The Department has given careful consideration to the contents of the memorandum of the Japanese Government, but finds it difficult to reconcile a number of the statements contained therein with information which has been received through other sources, and which clearly indicate that the Japanese lumber tariff is discriminatory in fact against American products. While the Department does not wish at present to make a formal protest to the Japanese Government in regard to this matter, it is not without hope, especially in view of the possibility suggested in your despatch No. 1203 of June 15 that the discrimination may be fortuitous rather than intentional, that further informal representations to the Japanese Government may bring about the elimination of the discriminatory features of the Japanese lumber tariff, and it, therefore, desires that you take the matter up with the Japanese Foreign Office in the following sense:

It is stated in the second numbered paragraph of the *note verbale* of March 30, 1929, that one-half of the logs of kedar, or benimatsu, a wood largely produced in Continental Asia, actually imported into Japan are made into ordinary boards 3 bu 5 rin in thickness, and are used as floor boards, roof boards, for making doors and other fittings, et cetera, the remainder being used for making moulds, various kinds of woodwork, et cetera, and that, therefore, kedar is limited in the uses to which it is put, and unlike North American lumber, is not capable of being used for general purposes. According to investigations which have been made by American lumber importers in Japan, however, kedar logs imported into Japan are sawed into fitches, baby squares, boards and panels, in which forms the wood goes into general use and enters into direct competition with American woods, particularly Port Orford cedar. These findings coincide with statements contained in a pamphlet advertising kedar recently published by the Nichiro Mokuzaï Kabushiki Kaisha, a Japanese firm which acts as the distributing agent in Japan of the Dallas lumber trust, to the effect that kedar has won distinction in the Japanese market and has been enjoying an increased demand since its introduction, owing to the fact that it can be used in the same way as American lumber and is of a better quality.

It is stated in the third numbered paragraph that the imports of kedar into Japan amount to no more than between 500,000 and 700,000 koku (60,000,000 to 84,000,000 feet B. M.), which is equivalent to only 6 per cent of the total imports of North American lumber, and that

⁴² Not printed.

no further increase can be expected when consideration is given to the condition of the forests in the places where it is produced. The pamphlet of the Nichiro Mokuzai Kabushiki Kaisha, above referred to, however, asserts that imports of kedar into Japan in the year 1927 amounted to 970,000 koku (116,400,000 feet B. M.), with expectations of a much larger volume of imports in 1928, and that the amount of kedar which can be shipped is estimated at about 5,000,000 koku (600,000,000 feet B. M.) annually. On the basis of the present volume of consumption of lumber in Japan, imports of kedar in the amounts anticipated by the Nichiro Mokuzai Kabushiki Kaisha would render probable the displacement of a substantial percentage of the present volume of imports from the United States. In view of the practical certainty that the favorable tariff treatment accorded kedar will give an immediate impetus to the development of logging facilities in the regions where it is produced and further stimulate imports of this wood into Japan, this Government cannot but concur in the apprehensions of American shippers regarding the adverse effects which the less favorable tariff treatment accorded to American lumber in the Japanese tariff will have upon their trade with Japan.

It is true, as pointed out by the Japanese Government, that the tariff rates in question are differentiated according to the kinds of woods, that the differentiation is not concerned with the place of origin of the woods, and that woods of American origin corresponding to the genera *Abies*, *Picea*, *Pinus* and *Larix* are subjected to the tariff rates applicable to kedar, which belongs to the genus *Pinus*. This Government is of the opinion, however, that the foregoing considerations are by themselves inconclusive in showing the absence of discrimination in fact and that the question of competition between woods of different species must also be taken into account. That is to say, certain woods of the same genus vary materially from each other, while conversely certain woods of different genera have in common essential properties which render them interchangeable in their uses. For example, it would appear from this Government's study of this subject that kedar is extensively used in the interior woodwork of Japanese houses, whereas most woods of the pine family produced in the United States contain rosin, which renders them unacceptable to Japanese consumers for such use. On the other hand, a kind of American wood widely used for this purpose is Port Orford cedar, which belongs to a different genus and which is subjected to a relatively high rate of duty. Similarly, it is understood that yolka, a species of fir (*Abies*) produced in Siberia and Manchuria, competes with American West Coast hemlock in the supply of material of a lower grade entering into the construction of Japanese houses, and yet the latter is subjected to a higher rate of duty.

In view of the assurances of the Japanese Government that the tariff in question is not designed to constitute any discrimination against American lumber in favor of kedar, this Government would be reluctant to believe that it is the intention of the Japanese Government to favor the trade of particular countries at the expense of American trade, an inference which might readily be made from a study of the practical effects of the tariff, and it is confident that the Japanese Government upon having the above considerations brought to its attention will discontinue the application of duties which discriminate in fact against American lumber.

You will note that the figures given herein for the imports of kedar into Japan are from an unofficial source; if official figures are available, it would be preferable to substitute them for those given.

I am [etc.]

For the Secretary of State:
J. P. COTTON

694.113Lumber/110

The Chargé in Japan (Neville) to the Secretary of State

No. 1274

TOKYO, September 10, 1929.
[Received September 27.]

SIR: I have the honor to refer to the Department's instruction No. 588 of August 1st last in which I was directed to take up informally with the Japanese Foreign Office the question of the apparent discrimination against American lumber caused by the revision of the Japanese lumber tariff in the last session of the Imperial Diet.

On the 30th August I had an interview with the Minister for Foreign Affairs and I enclose a memorandum of my conversation with him on that date.⁴³ Baron Shidehara, it will be noted, informed me that the whole question of the tariff now in existence would be reconsidered with a view to submitting certain proposals to the Diet when that body meets next winter. In the meantime, there is nothing that the Government can do to alter the situation. I have requested the Commercial Attaché's office to keep in close touch with the lumber import situation and to discuss the matter informally from time to time, as occasion may offer, with the Chief of the Commercial Bureau of the Foreign Office. I have adopted this course because I felt that discussions on the part of the Commercial Attaché would necessarily be of a more informal character than those that I might have with the Minister or Vice Minister for Foreign Affairs who have already told me that they would give the tariff question consideration. I shall undoubtedly have further opportunity to allude to this question in subsequent conversations.

⁴³ Not printed.

The Acting Commercial Attaché has, since my interview with Baron Shidehara, had occasion to discuss the operation of the tariff and I enclose a copy of a letter which he has written to the Chief of the Commercial Bureau,⁴⁴ giving him data as to imports of lumber into Japan, with particular reference to the position which American lumber occupies here. It will be noted that the Commercial Attaché's office has been very careful to take up no controversial nor political aspects of the lumber question, confining itself solely to matters of fact. I shall continue to keep this matter before the Japanese authorities in an informal manner.

I have [etc.]

EDWIN L. NEVILLE

694.113Lumber/121 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, November 26, 1929—5 p. m.

[Received November 26—9:40 a. m.]

110. Department's instruction 587 [588], August 1st. I have had conference with the Vice Minister for Foreign Affairs. He informs me that the committee has not yet reached a discussion of the lumber tariff and asked me for a formal note setting forth the American position. I shall prepare and send such note using Department's instruction as a basis and refer to my conversation with Minister for Foreign Affairs of August 30th.

NEVILLE

694.113Lumber/122 : Telegram

The Acting Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, November 27, 1929—3 p. m.

120. Your 110, November 26, 5 p. m. Your proposed action approved.⁴⁵

COTTON

⁴⁴ Not printed.

⁴⁵ In despatch No. 165, March 17, 1931, the Chargé in Japan reported to the Secretary of State the action taken by the Japanese Government on March 12 to revise the lumber tariff by increasing Siberian and Asiatic mainland import duties (694.113 Lumber/129). The Japanese Diet subsequently passed the proposal.

LATVIA

REPRESENTATIONS AGAINST THE APPLICATION OF A RESIDENCE OR SOJOURN TAX TO AMERICAN CITIZENS IN LATVIA¹

860P.512 Residence/12

The Minister in Latvia (Coleman) to the Secretary of State

No. 5840

RIGA, January 21, 1929.

[Received February 5.]

SIR: I have the honor to refer to the Legation's telegram No. 98, of November 30, 11 a. m., 1928,² concerning its efforts to induce the Latvian Government to remove the sojourn tax on Americans living in Latvia. The Department had instructed the Legation, in previous correspondence, to request the removal of this tax on the basis of paragraph 2 of Article I of the Treaty of Commerce and Consular Rights between the United States and Latvia,³ which reads as follows:

"The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals."

The Latvian Government now maintains, as explained in the Legation's telegram referred to above, that the tax in question is not an internal charge or tax within the meaning of the paragraph, but comes more properly under the provisions of the last paragraph of Article I of the same treaty, which reads as follows:

"Nothing contained in this treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration, admission or sojourn of aliens or the right of either of the High Contracting Parties to enact such statutes."

The Latvian Government points out, in this connection, that the law establishing taxes of this sort was signed on March 7, 1927, well before the conclusion of the treaty, and was thus an "existing statute" within the meaning of this provision.

In view of this position on the part of the Latvian Government, the Legation feels that the removal of the tax could be more easily and rapidly brought about if the request were made on the basis of reciprocity alone. Such a request could be made in the form of the Note outlined in the Department's telegram No. 58, of September

¹ Continued from *Foreign Relations*, 1928, vol. III, pp. 235-239.

² *Ibid.*, p. 239.

³ *Ibid.*, p. 208.

25, 11 a. m., 1928.⁴ The only alteration would have to be the one already pointed out in the Legation's despatch No. 5601, of October 3, 1928,⁵ that is, instead of stating that the Latvian Government granted exemption from sojourn taxes to nationals of certain countries, which is not strictly accurate, it might be stated simply that it granted reciprocity in regard to taxes of this kind. The remainder of the Note, with the Department's permission, could read like the draft Note submitted with the Legation's despatch of October 3, 1928.

There could not conceivably be any technical objection to compliance with such a request on the part of the Latvian Government, since one of the provisions of the same Law of March 7, 1927, reads as follows:

"A special tax can be levied on foreigners for the sojourn in Latvia and the departure from it. The amount of this tax shall be fixed by the Minister of the Interior in conjunction with the Minister for Foreign Affairs. The amount of the tax is based on reciprocity and may differ for citizens of different nationality."

The Latvian Government, furthermore, could hardly regard a request made on this basis as an abandonment of the American Government's position with regard to the interpretation of the Treaty, since there has as yet been no formal correspondence on the matter whatsoever, between the Legation and the Foreign Office.

In view of the fact that this matter has already been pending since last September, it is respectfully requested that the Legation be authorized telegraphically to transmit to the Foreign Office a Note as described above.

I have [etc.]

F. W. B. COLEMAN

860P.512 Residence/16

The Secretary of State to the Minister in Latvia (Coleman)

No. 598

WASHINGTON, February 12, 1929.

SIR: The Department acknowledges the receipt of your telegram of November 30, 1928,⁶ with reference to the interpretation of the treaty between the United States and Latvia, embodying the position of the Latvian Foreign Office to the effect that the sojourn tax on foreigners is not an internal charge or tax and that, therefore, the provisions of the second paragraph of Article I in the treaty do not apply with respect to Americans sojourning in Latvia.

The Department suggests that the position taken by the Latvian Foreign Office is unsound. The Foreign Office appears to believe that the sojourn tax is not an internal charge or tax within the meaning

⁴ *Foreign Relations*, 1928, vol. III, p. 236.

⁵ *Ibid.*, p. 237.

⁶ *Ibid.*, p. 239.

of paragraph 2 of Article I of the treaty, for the reason that Latvian nationals are not subject to it.

The paragraph reads, "The nationals of either High Contracting Party within the territory of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals". The use of the word "other" in this paragraph would seem clearly to imply that American citizens in Latvia have a right to claim exemption from the payment of the tax, as the tax is not imposed upon Latvian citizens. It would appear that Latvia would have a right to impose a sojourn tax upon American citizens in Latvia only in the event that a like tax should be imposed in that country upon Latvian citizens, and only in the amount that such tax might be required of them.

The Latvian Foreign Office asserts that the question of the sojourn tax on foreigners is dealt with specifically in the last paragraph of Article I of the treaty. The reservation in the paragraph, that nothing in the treaty shall be construed to affect the statutes of either party in relation to the admission or sojourn of aliens has to do, as the language clearly states, with admission and sojourn, and not with the treatment to be accorded them in matters of taxation or other substantive rights specifically covered by other parts of the treaty. It is suggested that if the Latvian construction of the treaty were applied, either party could virtually nullify certain specific grants in the treaty, such as the right to pursue certain occupations as accorded in the first paragraph of Article I, or the right to freedom of worship, granted by Article V.

In connection with the negotiation of the treaty, Article I of the counter-proposal of the Latvian Government, as conveyed in your Legation's despatch No. 4615, of July 18, 1927,⁷ differed from the last paragraph of this Government's draft of that Article in that it was provided in the Latvian draft that nothing in the treaty should be construed to affect existing statutes in relation to the "admission or sojourn of foreign nationals," or the right of either of the High Contracting Parties to enact such statutes, as well as that nothing therein should be construed to affect these rights in respect of the immigration of "aliens", which was the reservation in this Government's draft. In its instruction No. 479, of December 15, 1927,⁸ the Department informed your Legation that this Government construed the paragraph as contained in its original draft to embrace statutes affecting aliens temporarily visiting the United States as well as those affecting intended immigrants. This Government accepted the Latvian proposal with reference to the admission or sojourn of foreigners, except that it was agreed that the word "aliens" should be substituted for

⁷ *Ibid.*, p. 193.

⁸ *Ibid.*, p. 196.

the words "foreign nationals", occurring in the Latvian proposal. It may be seen that the term "admission or sojourn of aliens" was understood by this Government to refer to the right to impose immigration restrictions, and not as conferring upon either party the right to withhold from persons permitted sojourn any substantive right accorded in any other part of the treaty.

The Department would be pleased to have you bring this matter again to the attention of the Latvian Government, and to report to the Department the answer of the Latvian Government.

If, as appears from your despatch of October 3, 1928, such procedure would simplify the settlement of the matter, you may state, in such communication as may to you seem advisable, that Latvian nationals are not required to pay a sojourn tax in the United States, and request that American nationals in Latvia be relieved of the payment of the tax in that country.

I am [etc.]

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

860P.512 Residence/17

The Minister in Latvia (Coleman) to the Secretary of State

No. 6191

RIGA, June 4, 1929.
[Received June 17.]

SIR: Referring to the Legation's despatch No. 5840, of January 21, 1929, and to the Department's Instruction No. 598, of February 12, 1929, concerning the removal of the sojourn tax levied on American citizens residing in Latvia, I now have the honor to transmit herewith copies of a Note dated February 27, 1929, from the Legation to the Latvian Foreign Office, and of the latter's reply, dated June 1, 1929,⁹ stating that, beginning July 1, 1929, a fee of Lats 10.00 per year for the permit of sojourn in Latvia of American citizens shall replace the previous sojourn tax.

I have [etc.]

F. W. B. COLEMAN

860P.512 Residence/21

The Secretary of State to the Minister in Latvia (Coleman)

No. 671

WASHINGTON, September 24, 1929.

SIR: The Department refers to your Legation's despatch No. 6320 of August 1, 1929,¹⁰ enclosing copies of the Law governing the entrance of foreigners into Latvia, and with particular reference to the Department's instruction of February 12, 1929, concerning the Treaty between the United States and Latvia, desires that you bring the matter again to the attention of the Latvian Foreign Office and

⁹ Neither printed.

¹⁰ Not printed.

point out the fact that the Latvian law of March 2, 1907, in the second paragraph provides specifically that "the amount of the tax is based on reciprocity . . .".

You will, therefore, communicate with the Foreign Office and express the hope that, as Latvian nationals in the United States are not required to pay a sojourn tax and as the Latvian law contemplates that the sojourn tax in Latvia shall be executed on the basis of reciprocity, the Latvian Government may see its way to arrange for the exemption of American nationals from the sojourn tax.

For your information it may be stated that in the circumstances, it is the Department's opinion that in any event American nationals should not be compelled to pay any greater tax than the nationals of the nation most favored by Latvia in this particular.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

**TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE
UNITED STATES AND LATVIA**

(See under Estonia, volume II, pages 963 ff.)

LIBERIA

APPOINTMENT OF THE INTERNATIONAL COMMISSION OF INQUIRY INTO THE EXISTENCE OF SLAVERY AND FORCED LABOR IN THE REPUBLIC OF LIBERIA¹

882.5048/20 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, June 5, 1929—6 p. m.

5. The Department has received and examined your memorandum of March 22, the confidential report on Liberian conditions submitted by Dr. Patton to the Presiding Bishop of the Episcopal Church, and your confidential telegram to Mr. Castle of April 20.² It is the Department's belief that the serious situation set out in the foregoing reports justifies earnest representations to the Liberian Government which, by reason of its historic relationship to that Government, the Government of the United States should be in a position to give without being charged with unfriendliness. You will therefore formally present the following note to the Liberian Government unless you perceive controlling reasons why this should not be done at the present time. In that event please take no action without first communicating with the Department and requesting further instructions.

"I am directed by the Secretary of State to advise Your Excellency that there have come to the attention of the Government of the United States from several sources reports bearing reliable evidence of authenticity which definitely indicate that existing conditions incident to the so-called 'export' of labor from Liberia to Fernando Po have resulted in the development of a system which seems hardly distinguishable from organized slave trade, and that in the enforcement of this system the services of the Liberian frontier force and the services and influence of certain high government officials are constantly and systematically used. Indeed the reports reaching the Department of State would indicate that these conditions of forced labor are not confined to labor exported to Fernando Po but are general throughout the Republic of Liberia, particularly in the interior where forced labor procured with the assistance of the Liberian frontier force and high

¹ For report of the Commission, see *Report of the International Commission of Inquiry Into the Existence of Slavery and Forced Labor in the Republic of Liberia, Monrovia, Liberia, September 8, 1930*, Department of State publication No. 147 (Washington, Government Printing Office, 1931).

² None printed.

government officials is reported to have become a common and usual practice.

It is unnecessary to point out the condemnation of the governments and peoples of the world which would fall upon Liberia if the Liberian Government should fail to act promptly and energetically to correct any such labor conditions as are pictured in the reports which come to the Department. Indeed it is almost certain that in the present temper of the world regarding slavery, it might not be possible to withhold the governments of the world from considering that some effective affirmative action should, if necessary, be invoked by them to terminate a situation such as has been described in the reports to the Department, a course which could not fail to react in a far reaching way upon the future of Liberia. It would be tragically ironic if Liberia whose existence was dedicated to the principle of human liberty should succumb to practices so closely akin to those which its founders sought forever to escape.

The historic special interest of the United States in the welfare and progress of Liberia which has continued down to the present without interruption, has been repeatedly demonstrated whenever it has appeared that the existence of Liberia was threatened, and notable reference to it was made in President King's message to the Liberian legislature last autumn.

The Government of the United States, because of its century-old friendship for Liberia, is impelled urgently to call the attention of the Liberian Government to this matter and to impress upon it the vital importance and necessity of reforming without delay the social conditions reported to exist, and the Government of the United States does not doubt that the Liberian Government will be prompt to appreciate the situation and to take all appropriate measures to this end. Such measures should include the prompt ratification of the Slavery Convention signed at Geneva September 25, 1926,³ to which the Liberian Government is already signatory, and appropriate enforcement of its principles; the material alteration or radical change in interpretation of the present agreement with Spain⁴ regarding the recruitment of laborers for Fernando Po; a rigorous investigation of forced labor conditions throughout Liberia, a drastic reform and reorganization of the Frontier Force and of the administration of labor and of the interior, and the prompt and condign punishment of all persons, regardless of their position, who may be found to have aided in the development of forced labor conditions so closely resembling slavery and so repugnant to the moral sense of mankind. The Government of the United States is confident that the Republic of Liberia will act promptly and effectively to vindicate its good name and to eliminate a condition which if continued threatens grave consequences to Liberia."

You may rely with assurance upon the fullest possible support from the Department in making the foregoing representations.

STIMSON

³ *Foreign Relations*, 1928, vol. I, p. 417.

⁴ Signed at Monrovia on May 22, 1914.

882.5048/21 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

[Paraphrase]

MONROVIA, June 5, 1929—2 p. m.

[Received June 6—9:40 a. m.]

15. For Assistant Secretary of State Castle: The representative at Monrovia of the Barber Line reports that their agent at Cape Palmas is booking 100 natives as deck passengers for Libreville on the steamship *Zarembo*, due about June 20. The profit on this shipment is said to be approximately \$2,000. Because this shipment may involve the American line in the slavery problem, I should appreciate receiving immediate instructions or telegraphic comment.

FRANCIS

882.5048/21 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, June 7, 1929—6 p. m.

7. Your 15, June 5, 2 p. m. If you are satisfied that the laborers in question are being exported under compulsion, you should bring the matter informally to the attention of the Liberian Government advising it that this shipment if made would appear to be in contravention of the principles of the Act of Brussels⁵ and of the Slavery Convention of 1926 to which the Liberian Government is signatory and urge that the Liberian Government take appropriate measures to prevent such violation. You should similarly advise the Barber Line representative in Monrovia informing him that this Government is determined to invoke all means at its disposal to prevent the use of the American flag in the transportation of forced labor. In speaking to the Barber Line representative, you should make no reference to the Department's 5, June 5, 6 p. m. Please report action taken and further developments by cable.

STIMSON

882.5048/21 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, June 8, 1929—1 p. m.

8. Supplementing Department's 7, June 7, 6 p. m. Your attention is called to Sections 424, 425 and 431 of Title 18 of the Criminal Code of United States and particularly to the employment therein of the expression "to be held to service or labor". In the event that the shipment in question is made the Department expects to confer with

⁵ General act and declaration of Brussels, July 2, 1890, Malloy, *Treaties*, 1776-1909, vol. II, p. 1964.

the Attorney General of the United States with a view to considering the possibility of initiating criminal proceedings under these sections.

STIMSON

882.5048/26 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA, June 11, 1929—10 a. m.

[Received 11:30 p. m.]

17. Referring to Department's telegram of June 5, 5 [6] p. m. Note delivered to Secretary of State, June 10, 11 a. m.,⁶ who said:

"This is an old story. The Department does not say if the charges are true but assumes that they are true. They are serious and we will investigate but there being no specific instance charged investigation may be difficult".

Apparent that intention is to treat matter as a recurrence of the old charges of slavery against Liberia. He referred to the charge of slavery made by League of Nations. It is anticipated that his note in reply to mine will be a general denial and only touch lightly on shipments to Fernando Po, in effect that only those who volunteer are sent.

FRANCIS

882.5048/34 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA (via Akron, Ohio), June 13, 1929—9 p. m.

[Received June 20—11 a. m.]

18. Supplementing my 17, June 11, 10 a. m., received today reply as follows:⁷

"You were good enough on the 10th instant to hand me your despatch, dated June 8, 1929, by which I am advised of certain reports from several sources which have been brought to the attention of the Government of the United States bearing what, it would seem, the Secretary of State regards as reliable evidence of authenticity and which he considers as definitely indicating that conditions incident to the so-called 'export' of labor from Liberia to Fernando Po have resulted in the development of a system which 'seems hardly distinguishable from organized slave trade', and that in the enforcement of this system the services of the frontier force and of certain high Government officials are constantly and systematically used. You are pleased to add that the reports reaching the Department of State

⁶ Note dated June 8, 1929.

⁷ Reply from the Liberian Secretary of State, dated June 11, 1929. Text corrected on basis of copy enclosed with despatch Diplomatic No. 311, June 14, 1929, from the Minister in Liberia (882.5048/41), and corrections requested in despatch No. 13, January 26, 1943, from the Chargé in Liberia (026 Foreign Relations/1635).

would indicate that the conditions of forced labor are not confined to labor exported to Fernando Po, but are general throughout the Republic of Liberia, particularly in the interior where forced labor procured with the assistance of the frontier force and high Liberian officials is reported to have become a common and usual practice.

2. You suggest the far-reaching consequences which, in the present temper of the governments and peoples of the world, their condemnation would have upon the future of Liberia if prompt and energetic action is not taken by the Government of the Republic to correct any such labor conditions as are indicated in the reports made to the Department of State.

3. In view of the foregoing, your Government, moved by its century-old friendship for Liberia, are impelled urgently to call for certain indicated reforms and actions with a view to correcting the alleged abuses which have been brought to their attention.

4. Before replying to the observation, suggestion and demands which you have been instructed by your Government to make, I desire you to be assured that the Government of Liberia do not underestimate the serious character of the international public opinion which has called forth from the Government of the United States so portentous a warning; and I must express the appreciation of my Government of the friendly interest and concern for the social well-being and political future of Liberia which the Government of the United States continue to manifest. It is hardly necessary for me to add that if the alleged conditions to which attention has been called did actually exist in the Republic, the Government of Liberia, having regard to their historical origins and traditions, would not hesitate immediately, and without any external compulsion whatever, to take measures appropriate to correct these abuses.

5. With regard to the specific allegations which have been made, I deem it my duty to record my Government's solemn and categorical denial of the existence in the Republic of such labor conditions as would justify the characterization which has been applied to those conditions in your despatch, and to declare that the Government of the Republic will have no objection to this question being investigated on the spot by a competent, impartial and unprejudiced commission.

6. It is due to the honor of this Government that some observations, beyond a bare denial, be made upon the charges, which in recent years are becoming unceasingly more frequent, but which were first launched over a century ago, that slavery exists in Liberia, and is encouraged by the Government and participated in even by leading citizens.

7. With reference to the labor agreement with Spain and the Liberian Government's consistent policy thereunder, it is necessary to note that that convention was the outcome of the Liberian Government's efforts to ameliorate the lot of Liberian laborers who for a long period of years have resorted for economic reasons to the colonies of European powers to the south of the Republic, particularly the Spanish Island of Fernando Po and the Portuguese Islands of Principe and St. Thome. This movement of labor from the territories now under the joint jurisdiction of Liberia antedates the Republic and, until recent years, was unorganized, unsupervised, and regulated by no Government ordinances. In consequence of these conditions, the laborers, being unprotected and at the mercy of their employers, were

gradually reduced to a state of peonage which may justly be described as hardly distinguishable from slavery. The terms of their engagement were ignored, and they were only permitted to return to their homes, if they returned at all, when broken in health or wasted by disease, they were no longer of value to their employers.

8. The Government of the Republic not unmindful of their duty in these circumstances took action to terminate so outrageous a condition of affairs and discouraged its citizens from accepting employment in these colonies. The result of this policy reacted disastrously upon the agricultural industry of the colonies concerned, and moved the Government of Spain to open negotiations for a convention which would assure to their colony of Fernando Po a continuous and adequate supply of agricultural labor under such guarantees as the Government of Liberia would require. This agreement, after protracted negotiations, was signed and carried the following provisions protective of the interests of the Liberian laborer."

(He states nine points taken from 1914 agreement, viz., covering :

- (1) Appointment of Consul at Fernando Po
- (2) Recruiting
- (3) Employment period
- (4) Employment to objectionable persons prohibited
- (5) Supervision contract by Liberian Consul
- (6) Solvency of employer
- (7) Payment guaranteed by colonial government
- (8) One-half pay retained and paid to laborers on return to Liberia
- (9) Transportation by employer)

"9. In addition to these provisions, the Spanish Government were authorized to appoint recruiting agents and agencies who would contract for such persons who voluntarily desired to take service in Fernando Po. The recruiting agents are not servants of the Liberian Government, and the terms of their contract with the Spanish Government are neither known to the Government of Liberia nor inquired into by them, and surely they would have no authority nor have they been authorized or permitted to use the Liberian frontier force in their recruiting activities. It has never been understood nor admitted by the Government of Liberia that any compulsion could or should be employed to induce laborers to emigrate. On the contrary, this Government has publicly announced that in view of the increased economic needs of the country, there is a definite limit to the number of laborers who could with the consent of the Administration be permitted to contract for over-sea service; and whenever it has appeared that attempts have been made to mislead any person concerned as to the character of their engagement, the Government, when such facts have come to their knowledge, have promptly taken steps to make it known that no person could be compelled to contract, and so put an end to any abuse which may have crept up.

10. This is in broad outline the attitude which the Government of Liberia has consistently taken with respect to what is characterized in your despatch as 'the so-called export of labor'. This policy is based upon a determination to protect the interests of the laborer both upon his recruitment and during his period of service, and to

assure, so far as Government action can assure it, his complete liberty to contract or to refrain from contracting.

11. It is not easily apparent from your despatch what is intended to be implied by the statement that "these conditions of forced labor are not confined to labor exported to Fernando Po, but are general throughout the Republic of Liberia"; and no pertinent observation thereon can be made unless this Government be furnished with more definite specifications under this charge.

12. As this allegation, perhaps, has its origin in the policy pursued by the Government of Liberia in the construction of public roads, it is permissible for me to point out that the use of compulsory labor for public purposes is a fact not peculiar to the Government of Liberia. It has the sanction of the laws of the Republic; it is not repugnant to the slavery convention of 1926 and in Liberia is emphatically indicated by reason of the peculiar economic and financial conditions of the country. Moreover, the system approximates in no degree to slavery either as defined in the slavery convention of 1926 or in any sense, however loose or broad, in which that term may be employed.

13. A law as old as the Republic and in continuous operation since its foundation requires every male citizen to give a certain number of days free labor on the public roads annually, and in default of personal service to supply a substitute or be penalized. When it was decided to extend the road system beyond the littoral districts of the country, this law was of course applied to the hinterland districts. In fact, the chiefs of the various tribes, as anxious for the opening of these means of communication as is the Government itself, voluntarily offered to supply and do supply all the labor necessary for the prosecution of this public enterprise. These laborers do the pioneering work (the actual road-building being done by labor companies paid from money provided under budgetary votes) and the Government annually make a money donation to each chiefdom based upon the number of laborers furnished therefrom. These laborers are not recruited by the use of the Liberian frontier force. They are sent down by the chiefs under the leadership of their own headmen. Each laborer gives from one week to one month's labor annually.

14. Such are the actual labor conditions as they exist in Liberia. Such are the facts an impartial investigation will disclose, and in the opinion of the Government of Liberia they do not justify the evidently exaggerated and uninformed reports which have been filed with the Department of State.

15. Nevertheless, the Government of Liberia will immediately examine the conditions which may likely give color to the charges and will take all proper measures to vindicate their good name."

Respectfully suggest that offer in paragraph five be accepted without delay and Commission include an experienced investigator, and if agreeable to your wishes, Dr. Emmett Scott who served 1910 Commission,⁸ and an expert stenographer.

FRANCIS

⁸ See note of April 23, 1909, to the Liberian Minister for Foreign Affairs, *Foreign Relations*, 1910, p. 708.

882.5048/26 : Telegram

The Acting Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, June 15, 1929—2 p. m.

9. In reply to your No. 17, June 11, 10 a. m. You will formally present the following note to the Liberian Government.

“The Government of the United States is gratified to learn that its friendly offices in bringing the attention of the Liberian Government to the repeated statements of the existence of slavery and forced labor in Liberia has been met by the offer to make an investigation of the conditions complained of.

In view of the world interest in this question, the Liberian Government will no doubt in the exercise of its sovereign rights desire to appoint an investigation committee with full powers to determine the truth or falsity of the accusations which have received such wide credence as no longer to be ignored. Inasmuch as the prestige of the country will depend upon the approval of the world of any committee of investigation that may be appointed, the Liberian Government will doubtlessly desire to appoint an impartial committee made up of Liberians and non-nationals of Liberia; such action will redound to the prestige of Liberia and be a signal proof to other nations concerned in the suppression of slavery and forced labor that Liberia is determined to eradicate these evils for all time. With such a committee of investigation the Government of the United States will be glad to cooperate through its Minister to Liberia. The Government of the United States await with interest information from the Liberian Government as to what measures are to be taken in making the investigation, the names of members of any committee that may be appointed and the general scope of its work. It is needless to add that the Government of the United States is actuated by the friendliest feelings and by the earnest desire that Liberia may have an opportunity of demonstrating to the world that it is living up to the high principles that animated the founders of the Republic.”

CLARK

882.5048/32 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA, June 18, 1929—2 p. m.

[Received 6:50 p. m.]

19. Referring to the Department's 7, June 7, 6 p. m., and 8, June 8, 1 p. m. No action taken with Government.

Barber Line representative here reports that he has sent two radio messages as follows:

1. To Freetown agent to stop captains from transporting laborers destined for Fernando Po and Libreville.

2. To principal at New York City that it is inadvisable to accept such passengers, advising of radio to agent Freetown, and suggesting that the matter be taken up by principal with the Department of State.

FRANCIS

882.5048/32 : Telegram

The Acting Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, June 19, 1929—5 p. m.

10. Your 19, June 18, 2 p. m. Your course of action meets with the Department's approval.

CLARK

882.5048/36

*The Acting Secretary of State to the Ambassador in Spain
(Hammond)*

No. 572

WASHINGTON, June 19, 1929.

SIR: The Department desires to inform you that in accordance with its instructions the American Minister Resident in Monrovia, Liberia, on June 10 presented a formal note to the Liberian Government (copy of which is enclosed)⁹ calling the attention of the Liberian Government to abuses which are reported to have arisen in connection with the export of laborers from Liberia to Fernando Po and to have resulted in the development of conditions of forced labor closely analogous to organized slave trade.

Upon receipt of this note, the Liberian Secretary of State made the following verbal statement to the American Minister Resident:

"This is an old story. The Department does not say if the charges are true but assumes that they are true. They are serious and we will investigate but there being no specific instance charged investigation may be difficult."

The Department then on June 14 [15] instructed the American Minister Resident by telegraph to present to the Liberian Government a note (copy of which is enclosed)¹⁰ suggesting the appointment by the Liberian Government of an impartial committee of investigation consisting both of Liberians and of non-nationals of Liberia. As yet no formal reply to either note has been received from the Liberian Government.¹¹

It must be observed at once that this Government has no thought of suggesting that the Spanish Government or the Spanish authorities in Fernando Po have had any knowledge of the conditions in Liberia which have been made the subject of this correspondence. On the contrary, this Government believes that had such knowledge been in their possession the Spanish authorities would have declined to receive labor from Liberia recruited and exported under conditions such as have been reported and it is confident that the Spanish Government

⁹ See telegram No. 5, June 5, to the Minister in Liberia, p. 274.

¹⁰ See telegram No. 9, June 15, to the Minister in Liberia, p. 281.

¹¹ For first reply, see telegram No. 18, June 13, from the Minister in Liberia, p. 277.

and its officials once they are apprised of the state of affairs believed to exist in Liberia would be desirous of cooperating with this Government in such manner as might seem appropriate in preventing the continuance of any conditions such as have been reported to the Department in connection with the export of labor from Liberia to Fernando Po.

It is desired that you bring the contents of this instruction informally and in the strictest confidence to the attention of the Spanish Foreign Office not only as a matter of courtesy but also with a view to obtaining the cooperation of the Spanish Government in this matter.

I am [etc.]

J. REUBEN CLARK, JR.

882.5048/33 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA, June 20, 1929—3 p. m.

[Received 3:45 p. m.]

20. Your 9, June 16 [15], 2 p. m., just received and no action taken.

Has the Department received my 18, June 13, 9 p. m.? With reference to paragraph 5, I believe committee's findings will be thwarted by any Liberian members thereon. I request further instructions.

I suggest future instructions in this matter be sent by cable, not by radio.

FRANCIS

882.5048/33 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, June 22, 1929—1 p.m.

12. Your 20, June 20, 3 p. m. Your 18, June 13, 9 p. m. was delayed in transmission and was not received here until June 20. The Department approves your withholding action on its 9, June 15, 2 p. m. and in view of your 18, June 13, now desires that you present the following note to the Liberian Government in reply to its note to you of June 13 [11].

"I have the honor to advise you that I have received instructions from the Secretary of State to inform you that he has examined with attentive and sympathetic care the contents of your note of June 13 [11] and to state that the Government of the United States is gratified to learn that its friendly offices in bringing to the attention of the Liberian Government the repeated statements as to the existence of slavery and forced labor in Liberia have been met by an offer on the part of your Government to have this question investigated on the spot by a competent, impartial and unprejudiced commission.

In view of this proposal made in the Liberian note of June 13 [11], it is assumed that the Liberian Government will no doubt desire to proceed forthwith to set up a commission with full powers to investigate the situation. In view of the world interest in questions of slavery

and forced labor and considering the wide credence which has been given to the reports in question the Liberian Government will undoubtedly appreciate the importance of appointing a commission of a character that will redound to the prestige of Liberia and be a signal proof to other nations concerned in the suppression of slavery and forced labor that Liberia is determined to do its part in eradicating these evils for all time. It has been suggested that to that end such a commission might appropriately be composed of one Liberian member, one American member and one European member representative of general international interest in this question. Should this suggestion accord with the views of the Liberian Government the Government of the United States will be glad upon the request of the Liberian Government to assist in naming an American member of suitable qualifications and thereafter to cooperate with the commission in every appropriate manner.

The Government of the United States will await with interest the statement of the Liberian Government as to the procedure it proposes to adopt in the premises.

In concluding I am instructed to state that the Government of the United States is actuated by the friendliest feelings and by the earnest desire that Liberia may take this opportunity of demonstrating to the world its devotion to the high principles which animated the founders of the Republic."

[Paraphrase.] It is the feeling of the Department that, despite possible obstructionist tactics by the Liberian member, the Liberian Government should directly take part in the commission's investigations, committing itself thus to the commission's findings. [End paraphrase.]

In the selection of a Liberian member it would seem desirable that if possible a man be chosen of recognized standing who has no direct connection with the Government. In naming an American member this Government would be disposed to recommend a man of the type of Emmett Scott. As to the third member it is thought that the League of Nations could be of assistance in finding a suitable nominee.

You are authorized at your discretion to discuss the suggestions contained in the foregoing paragraph with Secretary Barclay and President King verbally and in strict confidence.

Please report developments by cable.

STIMSON

882.5048/32 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, June 22, 1929—2 p. m.

13. Your 19, June 18, 2 p. m. Representative of Barber Line called at Department June 21 and stated that the Steamship Company would undoubtedly be glad to instruct its agents to use all reasonable diligence to avoid taking shipments of forced labor. He

suggested that the agents might make personal inquiry of each laborer as he came on board their vessels whether he was going voluntarily or not and might also consult with you in advance regarding each shipment provided time permitted. He observed, however, that many of the shipments were perfectly legitimate and said that in view of the strong steamship competition on the West African Coast he felt that the Company should not be prevented from carrying such legitimate cargoes. He was informed that the Department had no desire to deprive American shipping of legitimate cargoes but that it was determined to invoke all practicable means to prevent shipments of forced labor from Liberia either in American ships or otherwise. The Department further suggested that the Barber Line representative in Monrovia be instructed by cable to confer with you with a view to working out some practical and effective means of distinguishing between legitimate shipments of voluntary laborers and shipments of forced labor such as those of which complaint has been made.

Please report by cable with comments and recommendations.

STIMSON

882.5048/39 : Telegram

The Third Secretary of Legation in Liberia (Wharton)¹² to the Secretary of State

MONROVIA, June 28, 1929—8 a. m.

[Received 9:20 p. m.]

25. Department's telegram 12, June 22, 1 p. m., complied with June 26, 11 a. m. Secretary Barclay hopes to reply at an early date.

He said that [he] received a note recently from the Bureau of Labor, League of Nations, but he would not comment thereon.

President King stated that if the Department's suggestions are accepted that he would not be inclined to appoint a government official as Liberian member, making no comment on other two members. He observed that references to Commission should state that under slavery convention forced labor may be exacted for public purposes.

President King expressed confidentially that the Department's original representations were very severe. In view of the second note, though still considerably worried, he informed me he believes that course absolutely essential.

WHARTON

¹² The Minister became ill on June 21, 1929, and died at Monrovia of yellow fever July 15.

882.5048/40 : Telegram

The Third Secretary of Legation in Liberia (Wharton) to the Secretary of State

MONROVIA, July 4, 1929—10 a. m.
[Received July 5—12:23 a. m.]

30. Referring to the Legation's No. 25, June 28, 8 a. m. The following note received from Secretary of State yesterday afternoon dated the 2d instant:

"[1] I am authorized in behalf of my Government to advise you of their acceptance of the suggestion put forth in your note dated June 26 with reference to the composition of a Commission to be set up by the Government of Liberia to examine the question of slavery in Liberia.

2. The procedure will be as follows: As soon as the terms of reference under which the Commission will conduct the investigation have been settled they will be communicated to you and this Government will appreciate any observations or suggestions your Government will be good enough to make thereon.

3. My Government will thereafter request the Government of the United States of America and the Secretariat of the League of Nations to recommend for appointment on the Commission one representative each, whose qualifications it is, of course, expected by the Liberian Government, will fulfill the conditions enumerated in my note of June 11, current.^{12a} Liberian member also will be appointed by the Liberian Government.

4. May I be permitted to reiterate the fact that my Government fully appreciate that your Government in bringing this matter to the attention of the Government of Liberia are inspired by the most friendly and disinterested motives?"

WHARTON

882.5048/43 : Telegram

The Third Secretary of Legation in Liberia (Wharton) to the Secretary of State

MONROVIA, July 11, 1929—4 p. m.
[Received 9 p. m.]

33. Department's telegram 13, June 22, 2 p. m. Barber Line representative, Monrovia, states that to date he has not received any instructions from his principals and there have been no shipments on his vessels since May 14th.

WHARTON

^{12a} This sentence corrected on basis of request contained in despatch No. 13, January 26, 1943, from the Chargé in Liberia (026 Foreign Relations/1635).

882.5048/39 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, July 12, 1929—7 p. m.

16. Your 30, July 4, 10 a. m. Please hand the following note to the Liberian Secretary of State:

"I have the honor to inform you that I have received telegraphic instructions from the American Department of State to express to you the high appreciation of the Government of the United States at the nature of the response which the Government of Liberia has made to the suggestions contained in the note presented to you on June 26 concerning alleged conditions of forced labor in Liberia. I am also instructed to add that the spirit of your note of July 2 gives striking evidence, if indeed evidence were needed, of the earnest desire of your Government effectively to meet the charges which have been made regarding labor conditions in Liberia, and which were the subject of the Legation's notes of June 10 [8] and June 26. The Government of the United States is frank to state that in its opinion the appointment of a Commission of Investigation such as has been suggested and accepted in principle by the Government of Liberia will have an effect upon the opinion of the world that cannot but redound to the prestige of the Liberian nation.

In considering the scope of investigation by such a Commission, I am instructed to say that it is the feeling of the Government of the United States that in view of the sweeping nature of the charges which have been made and the wide credence which they have obtained, it would seem preferable that the terms of reference for the Commission be made as broad as possible, to include the question of the 'export' of labor from Liberia to Fernando Po, the Congo and elsewhere, as well as the questions of the alleged use of forced labor within the country of Liberia. It is incumbent upon me to observe that the important element to be considered is not so much the technical terms of reference but rather the actual personnel of the Commission to be appointed, and, to that end, I am instructed to suggest for the consideration of your Government that very general terms of reference conferring the broadest possible powers upon the Commission be adopted for the guidance of the Commission, and that when the personnel of the Commission has been definitely determined, the Liberian Government make public announcement that it has been disturbed by reports regarding labor conditions in Liberia and that accordingly it has appointed a Commission to investigate matters on the spot in order to prevent such misconceptions from gaining further headway.

In concluding, I would wish to express my own appreciation as well as that of the Government of the United States of the manner in which you and President King have responded to the friendly representations of the Government of the United States in this delicate and difficult matter."

[Paraphrase.] As yet the Department has not taken any steps to appoint an American Commissioner and, furthermore, has succeeded up to the present in avoiding any discussion publicly of this matter either in the press or elsewhere. Since, however, there is always

danger of discussions breaking out, the necessity to act promptly should be appreciated by the Liberian Government in order that such discussions be forestalled. When the Liberian reply has been received to the note you have been instructed to present, it is planned by the Department to request Dr. Emmett J. Scott to serve on the commission, upon the assumption, naturally, of his availability. [End paraphrase.]

Please report telegraphically when the note is presented by you.

STIMSON

882.5048/39 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, July 23, 1929—6 p. m.

25. Department's 16, July 12, 7 p. m. Department appreciates that the death of Mr. Francis has necessitated a temporary suspension of the discussions with the Liberian Government regarding the appointment of the commission to investigate forced labor and slavery conditions in Liberia. However, it does not appear advisable to permit the matter to wait longer as Thomas Faulkner¹⁸ has just published in the *Baltimore Afro-American* of July 20 a vigorous and detailed attack upon forced labor and slavery conditions in Liberia, and it is likely that this article will be followed by other public discussion in this country and elsewhere. It is thought that unfavorable criticism which would inevitably arise in the course of such public discussion might to a considerable extent be forestalled and minimized by prompt action on the part of the Liberian Government in the form of the announcement of the commission. It is therefore desired that you present a note as outlined in Department's 16, July 12, 7 p. m. with the following changes.

(1) Add the following introductory phrases to the first paragraph of the note as contained in Department's 16: "Three days before the lamented death of Minister Francis he received instructions from the American Department of State to present a note in reply to your note of July 2 regarding alleged conditions of forced labor in Liberia. Minister Francis' untimely death prevented him from carrying out these instructions and from continuing his discussions with the Liberian Government on this matter in which he had a deep and sympathetic interest. The Government of the United States now desires that I continue the discussions inaugurated by the late Minister and accordingly"; and continue with paragraph one and the rest of the note as contained in Department's 16.

(2) In the penultimate paragraph of that note, change the phrase "has appointed a commission" to read "is appointing an international commission."

¹⁸ Thomas J. R. Faulkner, of Monrovia.

While in theory it might be preferable to determine upon the personnel of the commission before making announcement of its appointment, it is possible that the publicity which seems likely to arise may render it advisable for the Liberian Government to consider making the announcement that it is appointing an international commission before the actual personnel of the commission has been settled. You may discuss this feature of the matter informally and confidentially with the Liberian Government. Please cable when the note has been presented and advise Department of the Liberian reaction.

STIMSON

882.5048/50 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, July 24, 1929—noon.

[Received July 24—2:11 a. m.]

In compliance with your instructions 16, July 12, 7 p. m., my note of 22nd presented this morning 10:30. Barclay showed me copy of his note July 18th which he said was sent me this morning and which I have just now received.

Note states: (1) Government will be grateful to receive any observations or suggestions *re* terms of reference; (2) expenses incident to inquiry—each party represented on Commission will bear expense of its member. Does Department share this view?

Terms of reference follow:¹⁴

“The Government of Liberia with a view to the removal of all doubts with respect to the existence within the territory of the Republic of the institution of slavery as defined in the anti-slavery convention of 1926, propose to set up a Commission of Inquiry with special powers to ascertain:

(a) Whether slavery as defined in the anti-slavery convention in fact exists in the Republic;

(b) Whether this system is participated in or encouraged by the Government of the Republic;

(c) Whether and what leading citizens of the country participate therein;

(d) Whether compulsory labor for other than public purposes exists as a factor in the social or industrial economy of the state;

(e) Whether shipment of contract laborers to Fernando Po under the terms of arrangement with Government of Spanish [Guinea] is associated with [*assimilated to*] slavery, and whether the method employed in recruiting labor carry [*carries*] any compulsion;

(f) Whether the labor employed on the Firestone Plantations is recruited by voluntary enlistments or is forcibly impressed for this service by the Liberian Government or by its authority;

¹⁴ Text of terms corrected on basis of copy enclosed with despatch Diplomatic No. 327, July 27, 1929, from the Chargé in Liberia (882.5048/73).

(g) Whether the Liberian Government has at any time given sanction or approval to the recruiting of labor with the aid and assistance of the Liberian frontier force.

2. The Commission shall be authorized to issue summons for witnesses and to enforce the attendance of such witnesses under the provision[s] of the law of 1926, defining the powers of a Commission of Inquiry. Copy of this law is hereto attached.

3. It is within the competence of the Commission to make to the Government of Liberia such recommendations in respect to their findings as they may deem appropriate and necessary in relation to the subject matter of their inquiry.

4. The inquiry shall be concluded within two months; findings of the Commission filed with the Liberian Secretary of State within one month thereafter".

Law attached,¹⁵ see page 18, chapter 10, Acts of 1926.

In reply to my observation that no mention of labor for Congo, et cetera, in his note he stated [apparent omission] include such points in observations.

My confidential observations will follow immediately by cable.

WHARTON

882.5048/52 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

[Paraphrase]

MONROVIA, July 24, 1929—10 p. m.

[Received July 24—4: 54 p. m.]

Supplementing my telegram of July 24, noon.

Reference paragraph (d) of terms of reference: The Liberian Government apparently does not care to have an investigation of the conditions of compulsory labor on the roads and for other public purposes.

Reference paragraph (e) of the same: My understanding is that the laborers now being sent to Fernando Po come under a special agreement with the Spanish, and I suggest that the terms of reference cover all labor consignments exported to the Congo and elsewhere.

Reference paragraph (g): This should include, if possible, specifically "government officials".

Reference paragraph 2: The last sentence of section 2 of the law (copy attached to the note) reads thus: "They shall also have authority to punish for contempt, the penalty of which shall be imprisonment not exceeding seven days." I feel this law has no teeth and leaves the Commission powerless. I suggest, further, that the Commission

¹⁵ Joint resolution approved December 6, 1926; copy transmitted to Department in the Chargé's despatch Diplomatic No. 327, July 27, 1929 (not printed).

be empowered to issue subpoenas *duces tecum* and to compel witnesses to bring government records, etc.

Reference paragraph 4: Two months hardly suffice for the investigation, and I suggest either no time limit or more than two months.

According to reliable information, Vice President Yancy on July 19 radioed his agent at Cape Palmas that he had seen President King and that it was all right to ship the laborers, believed to number 200, at ten pounds sterling each, to be sent to the Congo. Apparently this was to be a final haul in spite of the pending representations.

WHARTON

882.5048/51 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, July 25, 1929—noon.

[Received 3:40 p. m.]

Referring to the Department's 25, July 23, 6 p. m. Note had been presented by me without change. See my July 24, noon, and July 24, 10 p. m. Liberia awaiting your observations.

Barclay agrees that you announce at this time that the Liberian Government, disturbed by reports regarding labor conditions in Liberia, are appointing an International Commission to investigate matters on the spot. He adds that he will also make announcement.

WHARTON

882.5048/52 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, July 26, 1929—6 p. m.

27. Your July 24, 10 p. m. Regarding Section 2 of the Liberian proposal is there any other law which could, if necessary, be invoked by the commission in order to strengthen its hand in dealing with witnesses.

Please cable reply with your comments and suggestions following which the Department will instruct you further.

STIMSON

882.5048/52 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, July 26, 1929—7 p. m.

28. Your confidential telegram July 24, 10 p. m. Last paragraph. Department would regard in a most serious light the export of laborers at this time when the whole question of the export of labor is about to be made the subject of an investigation. You may so advise Presi-

dent King informally suggesting the advisability of taking steps to prevent any shipments.

STIMSON

882.5048/53 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

[Paraphrase]

MONROVIA, July 26, 1929—midnight.

[Received July 27—6:47 p. m.]

Supplementing my telegram of July 24, 10 p. m. I learn from Cabinet sources that the Cabinet was kept in ignorance until July 19, the Liberian President and Secretary of State keeping their own counsel. It is felt by the Cabinet to be unwise for the President and the Secretary of State to bluff by offering a Commission of Inquiry. The Cabinet is now seeking the best way out.

Reference paragraph (e) of terms of reference: The President today allowed me to hear that he had only recently learned of the shipments of laborers to the Congo.

Reference paragraph (g): Former President Arthur Barclay informed me that today he and the Secretary of State, Edwin Barclay, were discussing the question of responsibility of the state for criminal acts of its nationals. I gather from the above and from the narrow terms of reference drafted for the Commission that the Government will attempt to maintain a position of entire ignorance regarding any slave trade by Liberians which, later, may be discovered by the Commission. Furthermore, the Government will be vindicated unless the findings reveal that the Government either participated in or at least encouraged slavery.

The implicated high officials are at present trying to conceal their part in the affair.

The former French Chargé, employed now by the Firestone interests at Cape Palmas, reportedly is collecting information there and communicating continually with Tabu, Ivory Coast, but no definite information is available.

WHARTON

882.5048/54

*The Spanish Embassy to the Department of State*¹⁶

MEMORANDUM

Recently the Representative of the United States communicated confidentially to the Government of His Majesty, that the Govern-

¹⁶ Handed by the Spanish Ambassador to Assistant Secretary of State Castle on July 29, 1929.

ment of the United States had made certain indications to the Government of the Republic of Liberia in connection with recruiting of labourers in said country made by compulsion or violence. As stated by said Representative, the United States has recommended to Liberia to ratify the treaty on slavery and to appoint a Commission to investigate the matter, said Commission to be made up of members of the country and by foreigners.

His Majesty's Government begs to thank very sincerely the United States Government for said communication, and should like very much that a Spanish member be appointed to form part of said Commission.

[WASHINGTON,] July 28, 1929.

882.5048/55 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, August 1, 1929—2 p. m.

[Received 7:10 p. m.]

Referring to the Department's 27, July 26, 6 p. m. Careful examination available documents, and I find no other law. According to practice here cannot an Executive order be issued? Legislative session October.

I hear that Yancy recruited Ggelebokru [*Gbelebo Kru*] laborers behind Grand Cess for Firestone, Cape Palmas; that a messenger from chief recently in Monrovia claiming men not paid two years work; truth or falsity unknown; Corwin¹⁷ unfamiliar with Cape Palmas situation but believe unfounded; Manager Ross¹⁸ thus far neglected to call [in] response to my letter of importance of Monday. Referring to paragraph (f) references, Government may attempt to save face through such charges.

President asks no selection of Garvey man or one in sympathy with United States Negro Improvement Association. I reiterated Department had in mind man, type of Scott, and I assured him he should have no apprehension. He said that he would not appoint an official and in confidence had in view ex-President Arthur Barclay.

WHARTON

882.5048/53 : Telegram

The Acting Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, August 3, 1929—noon.

29. Your July 24 noon, July 24, 10 p. m., July 25 noon, Department's 27, July 26, 6 p. m., your July 26, midnight, and August 1, 2 p. m.

¹⁷ Auditor of the Firestone Plantations Company.

¹⁸ Donald A. Ross, of the Firestone Plantations Company.

You may advise the Liberian Government that the Department feels that the Liberian note of July 18 makes a most constructive contribution to the discussion now in course between the two Governments regarding alleged forced labor and slavery conditions in Liberia. The terms of reference proposed by the Liberian Government, as reported in your July 24, noon, appear most generous in principle and this Government would be gratified to see them adopted with the following clarifying emendations, which it may be said would seem essential to insure the broadest possible basis for the work of the proposed commission.

(1) In introductory paragraph of Liberian terms of reference, insert the word "international" before "commission".

(2) Paragraph (*d*) should be altered to read "to what extent compulsory labor exists as a factor in the social and industrial economy of the State either for public or private purposes and whether the recruiting and employment of compulsory labor for public and private purposes has at any time been conducted in a manner inconsistent with the letter or spirit of Article 5 of the Slavery Convention of 1926". In this connection if you think it desirable you may explain to the Liberian Government that this Government's desire that paragraph (*d*) be broadened as suggested above should not be considered as being in any way critical of Liberian policy regarding the use of forced labor for public purposes but merely as evidence of its desire to make the commission's field of investigation as broad as possible.

(3) Paragraph (*e*) should be altered to read "whether shipment of contract laborers to Fernando Po under the terms of arrangement with Spain or shipment of such laborers to the Congo or any other foreign parts is associated with slavery and whether the method employed in recruiting such labor carries any compulsion."

(4) In paragraph (*f*) substitute the phrase "for private purposes on privately owned or leased plantations" for the phrase "on the Firestone plantations".

(5) Add to paragraph (*g*) the clause "and whether members of the Liberian Frontier Force or other persons holding official positions or in Government employ or private individuals have been implicated in such recruiting with or without Governmental approval".

(6) [Paraphrase.] Your comments have been considered by the Department which, however, believes the scope of the 1926 law suffices for the commission's purposes, provided that authority conferred upon the commission under the law is promptly and effectively enforced by the Liberian Government and that the latter recognizes that the commission under this law is authorized to compel witnesses to attend and to call for the submitting to it of public documents pertinent to the object of the inquiry. Should you, however, deem it necessary or desirable, you may informally advise the Liberian Government of the views of this Government on the matter. If, as your comments would seem to anticipate, the commission should fail to receive from the Liberian Government the requisite assistance in its work, then this Government would consider what other measures to meet the situation should be taken. [End paraphrase.]

(7) Section 4 of the Liberian proposal: change "two months" to read "two months or such further period as may be found necessary for the completion of the commission's investigation".

The Department feels that the original announcement of the commission and its terms of reference should come from the Liberian Government although, of course, it will be glad to issue a statement to the effect that it has been informed by the Legation at Monrovia of the Liberian Government's announcement. In view of the danger of premature and unfavorable publicity, it is thought that such announcement should be made at the earliest possible date. In this connection it is suggested that in making its announcement the Liberian Government might state that the commission is to consist of one Liberian, one American and one other the latter two of whom are to be appointed upon the recommendations of the United States and the League of Nations respectively. [Paraphrase.] If the terms of reference suggested above are accepted by the Liberian Government, and if the latter decides to follow the course which this paragraph suggests, the Department will defray the expenses of the commission's American member and of any secretarial assistance he may be given and likewise will urge through the Minister in Switzerland upon the League of Nations that the latter follow a similar course. Obviously, however, the United States cannot take any steps in this direction pending receipt of information that the Liberian Government has directly approached the League of Nations in the premises. [End paraphrase.]

COTTON

882.5048/56 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, August 3, 1929—2 p. m.

[Received 4:15 p. m.]

37. Referring to my cable of July 26, midnight. Ross states that charges are unfounded and he would welcome a full and complete investigation conditions of Firestone labor.

WHARTON

882.5048/56 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, August 9, 1929—2 p. m.

[Received 10:30 p. m.]

39. Department's telegram No. 29, August 3, noon. Note delivered this morning. Secretary of State Barclay remarked that suggested changes appear to be unobjectionable in principle but will submit to the President. Referring to Department's [paragraph] 6.

He states under 1926 law Commission has a right to compel attendance of witnesses and call for submission of public documents.

Barclay informed me that he at this time officially announces for publication by the Department that "the Liberian Government are appointing an International Commission composed of one Liberian, one American, and one other member, the two latter, which it is hoped the United States and the League of Nations will agree to recommend respectively upon request of the Liberian Government."

When terms of reference completed he said he would request recommendation of the United States and approach League direct.

WHARTON

882.5048/56 : Telegram

The Acting Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, August 12, 1929—5 p. m.

83. Department's mail instruction 522, June 19.¹⁹

On August 9 Department gave following statement to press: "A telegram received from the American Legation at Monrovia dated August 9 states that the Liberian Government has officially requested that the Department make public announcement that the Liberian Government is appointing an international commission to investigate alleged forced labor conditions in Liberia, the commission to be composed of one Liberian, one American and one other member. The Liberian Government further states its hope that the United States and the League of Nations will each agree, upon the request of the Liberian Government, to recommend a member to be appointed to the commission." In response to inquiries the Department further stated "that it would be glad to cooperate with such a commission".²⁰

[Paraphrase.] The commission's terms of reference have as yet not been perfected, but they are expected to be completed in a very few days and to afford the broadest basis possible for the proposed inquiry. The full text will be sent to you immediately following agreement with the Liberian Government.

If requested, the Department intends to nominate the commission's American member whose expenses and those of a secretary accompanying him will be paid by the Department. Upon the basis of the mail instruction above and of this telegram, you should informally discuss the matter with the League of Nations Secretary General and ascertain if the League would be ready to do likewise on being requested by the Liberian Government.

¹⁹ Not printed.

²⁰ This paragraph was sent also to the Chargé in Liberia as telegram No. 30, August 12, 5 p. m. The following was added thereto: "Department has made no other statement regarding the question."

You may add that great importance is attached by the Department to this commission's early successful organization. [End paraphrase.]

COTTON

882.5048/58

The Liberian Consul General at Baltimore (Lyon) to the Secretary of State

BALTIMORE, August 14, 1929.

[Received August 15.]

EXCELLENCY: There has been in certain quarters, and more recently from one Thomas J. R. Faulkner a Liberian Citizen of American birth persistent insinuations, alleging the existence of slavery and forced labor conditions in the Republic of Liberia, encouraged by the Government and practised in by leading citizens. In a recent cablegram I am authorized by Edwin J. Barclay, the Liberian Secretary of State to announce the Government's determination to go to the very bottom of these charges, by the appointment of an international commission, to consist of one American, one Liberian and another to be chosen by the Secretariat of the League of Nations, upon the request of the Liberian Government. This commission will be furnished with wide powers to inquire into conditions, which have led to the persistent reports of Slavery in the republic. The commission will also inquire into the question of alleged forced labor conditions. This inquiry will finally put at rest any uncertainty on the question raised. The Liberian Government will ignore the charges of political irregularity made by a defeated candidate for the presidency. Matters of this kind are Liberia's domestic affairs and can only be settled at home. But the charge of slavery possesses humanitarian features and Liberia as a civilized government is too sensitive to attacks of this nature to allow it to pass without official notice.

I have [etc.]

ERNEST LYON

882.5048/59 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, August 14, 1929—9 p. m.

[Received August 14—2:34 p. m.]

40. Referring to Legation's No. 39, August 9, 2 p. m.; and Department's No. 30 [29], August 3, noon, particular reference to paragraph (d) and numbered 2.

Secretary of State orally advises that the Liberian Government feels that this paragraph should read: "To what extent compulsory labor exists as a factor in the social and industrial economy of the state either for public or private purposes."

He states that second clause of Department's emendation seems to carry with it a conclusion of fact the existence of which is actually the purpose of the Commission's inquiry and that his Government believed that paragraph (*d*) as quoted above with the words "public or private purposes" is sufficiently broad in scope to enable the Commission to inquire into all recruitment and employment of alleged compulsory labor for public and private purposes. He adds that the other emendation[s] are all right in principle and he made no comment.

Upon receiving Department's reply, terms of reference will be concluded and the Liberian Government will request Department recommend a member and request to League of Nations by Liberia direct.

[Paraphrase.] I have heard of the Liberian Government's endeavor to be represented at the League of Nations by a Spaniard,²¹ and from a reliable source I learn that the Liberian Government has authorized the payment of its fees to the League of Nations, some \$4000, which practically takes up all of the unassigned revenues on hand. [End paraphrase.]

WHARTON

882.5048/59 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, August 16, 1929—2 p. m.

32. Your 40, August 14, 9 p. m. Department does not fully understand the basis for Barclay's contention that the Department's emendation of paragraph (*d*) "appears to carry with it a conclusion of fact et cetera". In the Department's view there are two distinct questions for the commission to consider in this connection; one, to what extent compulsory labor exists in Liberia either for public or private purposes, and two, whether the recruitment and employment of such labor has been carried on in a manner consistent with Article 5 of the Anti-Slavery Convention of 1926. Of the two questions the Department considers (2) the more vital one and a failure to cover it in the terms of reference would, in the Department's opinion, so narrow the scope of the commission's inquiry as to render it largely nugatory. Please explain this point of view to the Liberian Government stating that for this reason the Government of the United States feels that some provision for (2) in paragraph (*d*) is essential. If, however, the Liberian Government feels that the wording proposed in the Department's 29, August 3, noon, carries an implication to the effect that this labor has actually been recruited and employed in a manner inconsistent with Article 5 of the Convention of 1926, you may in

²¹ The arrangement contemplated was the naming of a Spaniard by the League of Nations to serve on the Commission of Inquiry.

your discretion suggest that paragraph (d) read "to what extent compulsory labor exists as a factor in the social and industrial economy of the state either for public or private purposes and in what manner it has been recruited and employed either for public or private purposes."

[Paraphrase.] The Department has informed the Minister in Switzerland concerning the situation and has instructed him informally to discuss it with the League of Nations' Secretary General. The Minister has been asked to ascertain if the League of Nations will cooperate in a similar manner to that of this Government. The Minister will be instructed further upon receipt of information that the League has actually received a request from the Liberian Government.

The naming by the League of a Spaniard would be considered by the Department as highly inappropriate, under the circumstances, since it is possible that, as a result of the commission's inquiry, the activities of various Spanish officials and private individuals in Fernando Po and Liberia may be put in question. The Minister has been authorized so to advise the League's Secretary General in strict confidence. [End paraphrase.]

STIMSON

882.5048/60 : Telegram

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

[Paraphrase]

BERNE, August 17, 1929—3 p. m.

[Received 7 p. m.]

61. Your telegram 83, August 12, 5 p. m. Yesterday I discussed the Liberian matter with Sir Eric Drummond. Liberia has not yet notified the League of its desire for a member of the Commission to be appointed by the League. The normal procedure would be to have Liberia raise the matter in the League Assembly, which then would refer it to the League Council. The Secretary General stated that undoubtedly the League would be glad upon request to appoint a member, but the League cannot undertake paying his expenses, because it is limited by a budget and no fund exists from which such expenses might be met. The League would be obliged to assume that, if the invitation came from the Liberian Government, Liberia would meet the expenses.

Sir Eric inquired regarding the type of man to be chosen by the United States, since he would like to select a man with complementary qualities, thus making the Commission as thorough as possible. He also stated he was thinking of choosing a Netherlander or a Belgian, since a man with colonial administrative experience might be found

among them. When I questioned the advisability of picking a man from a country having African possessions, Sir Eric asked whether I could obtain the Department's views to be transmitted orally by me to him.

WILSON

882.5048/58

The Acting Secretary of State to the Liberian Consul General at Baltimore (Lyon)

WASHINGTON, August 22, 1929.

SIR: I beg to acknowledge the receipt of your communication of August 14, informing the Department of the desire of the Liberian Government to investigate fully by means of an international commission the charges which have been made in certain quarters regarding alleged slavery and forced labor conditions in Liberia.

This Government, needless to say, is fully appreciative of the humanitarian motives which have prompted the determination on the part of the Liberian Government to appoint an international commission to investigate. It feels that such action on the part of the Liberian Government cannot but redound to Liberian prestige, and it has already indicated to the Liberian Government through the American Legation at Monrovia this Government's willingness to cooperate with such an international commission.

Very truly yours,

J. P. COTTON

882.5048/64 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, August 22, 1929—9 p. m.

[Received August 23—4:20 p. m.]

41. Referring to Department's telegram number 32, August 16, 2 p. m. Yesterday I presented written memoranda setting forth Barclay emendation paragraph (d) and all of the Department's non-confidential August 16, 2 p. m. Barclay orally stated that Government feels that this paragraph should read: "To what extent compulsory labor exists as a factor in the social and industrial economy of the state either for public or private purposes and, if it does exist, in what manner it has been recruited and employed either for public or private purposes."

With reference to paragraph 4, last paragraph, terms of reference, he states his Government is sincere in its desire to have investigation completed within a definite time and is willing to add to "two

months" an additional 30 or 60 days. I believe four months sufficient. See my 42, August 22, 10 p. m.²²

WHARTON

882.5048/65 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

[Paraphrase]

MONROVIA, August 22, 1929—10 p. m.

[Received August 23—6:20 p. m.]

42. Reference my 41, August 22, 9 p. m., first paragraph. Yesterday Barclay inadvertently mentioned, in referring to paragraph (*d*) of the terms of reference, that the anti-slavery convention of 1926 had not been ratified yet by Liberia and he was thinking by what standard the Commission should judge facts. Promptly I recalled to him the fact that Liberia was a signatory and also that my Government in the original representations had advised his Government of the necessity of prompt ratification. Barclay said then that in the terms of reference his Government had accepted the definitions of the 1926 convention, which would be before the Liberian Senate in October for ratification.

As I was not satisfied, I again called today to clear up this point. Barclay says that the Commission may use the standard of article V in investigating compulsory labor for public purposes; that his Government claims to maintain the standard set by article V; and that his only objection to the Department's emendation of paragraph (*d*) was that it seemed to set up for the Commission a prejudgment of fact in the terms of reference. He requested that I consider his remark yesterday as personal, adding that there was no fear and merely a desire for the Commission to act judicially in the investigation and not to listen to persons carrying false information tending to cause prejudice. I said I was sure that the foreign members of the Commission of Inquiry would be men of a high type.

He reiterated Liberia's belief in the friendly feeling of the United States Government in the present discussions. From the foregoing I gather that the Liberian Government is concerned about formal action and that possibly Barclay may have thought of taking the position that the 1926 convention is not the law of the land until it has been ratified.

WHARTON

²² *Infra.*

882.5048/66: Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, August 27, 1929—10 p. m.

[Received August 28—1:50 p. m.]

44. My uncertainty as to whether shipments of laborers to private interests Fernando Po would fall within the scope of paragraph (e) led me to ask Barclay informally concerning basis of shipments. He stated that all of the shipments of Fernando Po came under 1914 agreement and "so far as my Government knows no shipments private firms".

He stated that Government had no knowledge of shipments of Congo until advised by Manager Ross last March.

Liberian Government awaiting the reply of Department to my 41, August 22, 9 p. m.

WHARTON

882.5048/107

*The American Chargé in Liberia (Wharton) to the Liberian Secretary of State (Barclay)*²³

MONROVIA, August 27, 1929.

MY DEAR MR. SECRETARY: I am pleased to set forth, for your confirmation, our conversation of this morning with reference to shipments of Liberian natives as laborers to Fernando Po.

1. The writer informed the Liberian Secretary of State that it had come to the attention of the American Department of State that native laborers recently shipped to Fernando Po were being shipped under a special arrangement and not under the agreement concluded between Liberia and Spain in 1914; that in view of the wording of Paragraph E of the proposed terms of reference some expression from the Liberian Secretary of State as to the basis of shipments would be appreciated by the writer.

2. Further, the writer stated that it is said that Mr. S. A. Ross²⁴ stated that he was recruiting and shipping native laborers under a Special Executive permit.

3. The writer asked if any laborers were shipped to Fernando Po under any other agreement or arrangement than that with the Spanish Government of 1914, and whether any of the laborers were shipped direct to private persons or companies.

4. The Secretary informed the writer that when he was acting as Chief Executive during the absence of President King in 1927, a question arising out of what he considered a violation of the terms of the 1914 agreement between Liberia and Spain, led him to give

²³ Copy transmitted to the Department by the Chargé in Liberia in his despatch Diplomatic No. 371, September 7; received October 26, 1929.

²⁴ Liberian Postmaster General and recruiting agent for the Spanish Government.

notice immediately that the agreement would terminate six months thereafter as provided, and he ordered all shipments of laborers to cease from date of notice. Upon report to Madrid, the Spanish Ambassador in London was instructed to approach President King who was then in London, and suggest to him that shipments were not to stop until six months after notice. President King agreed with their view, but the Secretary had stopped shipments altogether, resulting in embarrassment to Fernando Po as no crops had been gathered. Thereafter a private syndicate of farmers sent a commission to Monrovia to find out if they could get laborers in a private way. The Secretary stated that he refused to treat on this question with a private organization and informed the commission it was a matter for adjustment between the two governments. But upon the representations of the Spanish Consul in Monrovia, discussing the question as to inability to gather crops and other labor conditions in Fernando Po and need for Liberian laborers, the President promised, as a matter of comity that he would permit shipment of 3,000 laborers over a period of two years as from January 1928, under the terms of the 1914 agreement, but advising that after that they could not expect to receive any more laborers from Liberia.

5. As there was a specific law against recruiting of laborers in Montserrado and Bassa Counties, Mr. S. A. Ross, recruiting agent of Spanish Government, was given a special permit in order to recruit laborers in these counties to make up numbers needed under the special arrangement explained above.

6. The Secretary further stated that so far as his government knows there have been no shipments to private firms except perhaps under clandestine methods of agents sent from British possessions.

7. The Secretary also stated that his government had no knowledge of shipments to the Congo until the matter was brought to the attention of the Government by Mr. D. A. Ross, Manager of the Firestone Plantations Company, sometime in March 1928, while he was discussing the shortage of labor in Maryland County. The Secretary said that the President was annoyed as application had been made to the Government by a private French agent who was told no permit to private firms, and that only arrangement could be made between the French and Liberian governments for labor.

8. The Secretary in concluding said that he was anxious to complete the terms of reference as soon as possible.

I am [etc.]

CLIFTON R. WHARTON

882.5048/107

*The Liberian Secretary of State (Barclay) to the American Chargé in Liberia (Wharton)*²⁵

MONROVIA, August 28, 1929.

MR. CHARGÉ D'AFFAIRES: In order that there may be no misunderstanding I undertake to write out my observations to you during the conversation had on the morning of the 27th:

1. The American Chargé d'Affaires informed the Liberian Secretary of State that it had come to the attention of the American Department of State that native labourers recently shipped to Fernando Poo were being shipped under a special arrangement and not under the Agreement concluded between Liberia and Spain in 1914; that in view of the wording of paragraph E of the proposed terms of reference some expression from the Liberian Secretary of State as to the basis of shipments would be appreciated by the Chargé d'Affaires.

2. Further the Chargé d'Affaires stated that it is said that Mr. S. A. Ross stated that he was recruiting and shipping native labourers under a Special Executive Permit.

3. The Chargé d'Affaires asked if any labourers were shipped under any other Agreement or arrangements than that with the Spanish Government of 1914, and whether any of the labourers were shipped direct to private persons or companies.

4. The Secretary of State said in reply to the enquiries of the Chargé d'Affaires that when he was discharging the duties of the Chief Executive during President King's absence in 1927, a question arising out of what he held to be a violation by the Spanish authorities of the 1914 Agreement led him to give notice that the Convention would terminate six months thereafter as provided in the Agreement. He also ordered all shipments of labourers to cease immediately, on the date of the notice. The Spanish representative at Monrovia reported this action to Madrid, where it was held that the Secretary of State's action in stopping shipments was not in accord with a correct interpretation of the Convention. The Spanish Ambassador in London was instructed to approach President King, who was then in London, and suggest to him that the Secretary of State's interpretation of the effect of the notice was incorrect, since it was obvious that the obligations of the Convention could not be nullified until the expiry of six months after notice. The Spanish Government held that they had a right to continue recruiting up to the end of the six months. President King agreed with the Spanish view. But shipments of labourers had already completely ceased under the Secretary of State's orders. The Spanish Government sent out a

²⁵ Copy transmitted to the Department by the Chargé in Liberia in his despatch Diplomatic No. 371, September 7; received October 26, 1929.

special representative to come to an understanding with the Liberian Government. They were led to take this step because of stagnation in the agricultural industry at Fernando Poo due to a lack of labour. Whilst the official discussions were going on, a Private Agricultural Syndicate sent representatives to Monrovia with a view to coming to an arrangement with the Government for a supply of labourers on their own account. They were informed that the Government would not treat with a private organization on this question.

5. The discussion with the Spanish Representative did not eventuate in a mutual accord, and pending a settlement of the difference he requested as a special favour that the Liberian Government should assist in ameliorating conditions in Fernando Poo where the crops could not be gathered for lack of Liberian Labour. The President promised, that, as a matter of comity, he would permit the recruitment and shipment of 3,000 labourers over a period of two years as from July 1928, under the terms of the 1914 Agreement, but advised them that when that number was reached they could not expect to receive any more labourers from Liberia. This is, perhaps, what Mr. Ross meant by a Special Permit. No Special Permits were given at any time. So far as the Secretary knows or is advised no shipments have been made to private persons or companies except perhaps by clandestine methods by agents sent from British possessions. The Secretary of State further observed that the Liberian Government had no knowledge of labourers being shipped to the Congo until the fact was brought to their knowledge by Mr. D. A. Ross, Manager of the Firestone Plantations Company sometime in March, 1929, whilst he was discussing the shortage of labour in Maryland County. The President had been greatly annoyed over this, as he had ordered that labourers should not go to the Congo owing to the unhealthy conditions there which had been reported to exist. Application had been made by a private French firm for permission to recruit labourers for service in the Congo and this had been refused, unless special arrangements were made between the two Governments. If indeed shipments had been made to the Congo, they were unauthorized.

The Secretary of State in concluding said he was anxious to complete the Terms of Reference as soon as possible.

I am [etc.]

[File copy not signed]

882.5048/65 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, August 28, 1929—8 p. m.

33. Your 41, August 22, 9 p. m., and 42, August 22, 10 p. m. Department considers that Barclay's suggestion as to wording of paragraph D reported in your 41 meets the suggestion contained in Department's 32, August 16, 2 p. m.

If Liberian Government feels it desirable to set a time limit on the activities of the Commission there would seem to be no objection to adding to "2 months" an additional 60 days.

[Paraphrase.] Should this period not prove sufficient for the purposes of the investigation, at the proper time a further extension will be taken up in further representations. [End paraphrase.]

This should complete the terms of reference and the Department hopes to learn at an early date that the Liberian Government has published them in the form determined by your July 24, noon, Department's 29, August 3, noon, your 41, August 22, 9 p. m. and the present instruction.

It is assumed that the Liberian Government will at the same time make appropriate request for the recommendation of members of the Commission of this Government and of the League of Nations.

You may also observe informally and verbally in your discretion that the Liberian Government need have no apprehensions as to the type of man whom this Government will recommend for the Commission as this Government will spare no effort to secure the services of an unprejudiced investigator of sound and sympathetic judgment.

STIMSON

882.5048/74 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, September 7, 1929—11 a. m.

[Received 3:50 p. m.]

45. Referring to Department's No. 33, August 28, 8 p. m. Officially informed terms of reference completed in the form of our discussions. Not to be published at this time. Request from Liberia yesterday Government of the United States recommend member of the Commission. Request to League made direct. See my 46, follows.

WHARTON

882.5048/75 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, September 7, 1929—4 p. m.

[Received September 8—5:58 p. m.]

46. I have complied with the Department's 33, August 28, 8 p. m., and I have given Barclay a draft of the terms of reference as determined by our discussions as follows:

In introductory paragraph insert the following word "International" before "Commission", paragraphs (a), (b), (c), 2, 3, as stated in my telegram of July 24, noon; paragraph (d), as stated in my telegram 41, Aug. 22, 9 p. m. and your 33, Aug. 28, 8 p. m.; paragraphs (e), (f) and (g), as stated in Department's 29, Aug. 3, noon; paragraph 4, substitute "four months" for "two months".

Note received from Liberian Government yesterday stating: ²⁶

(1) Terms of reference for Commission to inquire into alleged existence of slavery "and a system of forced [labor] which is [assimilated to] slavery as defined in the anti-slavery convention of 1926". ²⁷

(2) Confirming understanding that Commission authorized to call for pertinent public documents.

(3) "The form and contents of the terms of reference having been settled, I have the honor to solicit your good offices in conveying to your Government the request of the Government of Liberia that the Government of the United States will assist my Government in effectuating its desire for an impartial investigation of the facts relative to the shipment of laborers from Liberia to Fernando Po and elsewhere and the recruitment and employment of compulsory labor in Liberia by the nomination for appointment on the Commission of Inquiry of a citizen of the United States possessing the qualifications already indicated to you."

(4) Grateful acknowledgments to the Department for practical suggestions received.

In answer to my inquiry today as to (1) exact form and contents of the terms of reference and referring to my draft given to Barclay, (2) time Liberia intends to publish terms, and (3) request to League recommended member of the Commission, I have received note ²⁸ stating (1) form and contents of terms as settled by the Liberian Government correctly set out in my draft, (2) intention is not to publish terms until after the Commission is set up, and (3) request to League, 6th instant.

WHARTON

882.5048/75 : Telegram

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

WASHINGTON, September 11, 1929—3 p. m.

105. Referring to Department's No. 83, August 12, 5 p. m. and Legation's No. 61, August 17, 3 p. m. terms of reference as reported by American Chargé d'Affaires at Monrovia for International Commission to Investigate Alleged Forced Labor Conditions in Liberia are as follows:

"The Government of Liberia with a view to the removal of all doubts with respect to the existence within the territories of the Republic of the institution of slavery as defined in the Anti-Slavery Convention of 1926, propose to set up an International Commission of Enquiry with special powers to ascertain:

(a) Whether slavery as defined in the Anti-Slavery Convention in fact exists in the Republic.

²⁶ Note No. 591/D, dated September 4, 1929.

²⁷ Text of sentence corrected on basis of copy enclosed with Chargé's despatch Diplomatic No. 374, September 10, 1929 (882.5048/108).

²⁸ Note No. 602/D, dated September 7, 1929.

(b) Whether this system is participated in or encouraged by the Government of the Republic.

(c) Whether and what leading citizens of the country participate therein.

(d) To what extent compulsory labor exists as a factor in the social and industrial economy of the state either for public or private purposes and if it does exist in what manner it has been recruited and employed either for public or private purposes.

(e) Whether shipment of contract laborers to Fernando Po under the terms of arrangement with Spain or shipment of such laborers to the Congo or any other foreign parts is associated with slavery and whether the method employed in recruiting such labor carries any compulsion.

(f) Whether the labor employed for private purposes on privately owned or leased plantations is recruited by voluntary enlistments or is forcibly impressed for this service by the Liberian Government or by its authority.

(g) Whether the Liberian Government has at any time given sanction or approval to the recruiting of labor with the aid and assistance of the Liberian Frontier Force and whether members of the Liberian Frontier Force or other persons holding official positions or in Government employ or private individuals have been implicated in such recruiting with or without Governmental approval.

2. The Commission shall be authorized to issue summons for witnesses, and to enforce the attendance of such witnesses under the provisions of the law of 1926, defining the powers of a Commission of Enquiry. Copy of this law is hereto attached.

3. It is within the competence of the Commission to make to the Government of Liberia such recommendations in respect of their findings as they may deem appropriate and necessary in relation to the subject matter of their enquiry.

4. The enquiry shall be concluded within four months and the Findings of the Commission filed with the Liberian Secretary of State within one month thereafter."

The Chargé d'Affaires also reports that the Liberian Government requested the League on September 6 to nominate a member of this commission.

[Paraphrase.] Replying to your 61, August 17, 3 p. m., this Government is in no position either to meet the expenses of the Commission member nominated by the League of Nations or to urge that this be done by the Liberian Government. In the case of the Commission member nominated by this Government, moreover, this Government is of the view that it would not be wise for it to let the Liberian Government defray his expenses or the expenses of his staff. You may intimate to the League's Secretary General that the United States Government is happy to have an opportunity of assisting the Liberian Government in its efforts to make use of the effective work done by the International Labor Office and by the framers of the anti-slavery convention of 1926.

Should you find any likelihood of the League not cooperating, by naming a Commission member, on account of the expense involved, at the proper time you may, in your discretion, intimate that this Government would in any event wish the investigation to be continued by a Commission to consist of a Liberian, an American and possibly a third member of some other nationality.

For your information, the Department has no national preference except that the League's nominee should not be a national of a country likely to import labor from Liberia. Of course, it would be preferable for him to know English. Added to the usual qualifications of an investigator, he should be familiar, if possible, with the activities of the League of Nations and of the Temporary Slavery Commission.

This is for your guidance in talking to Sir Eric Drummond, and the Department does not wish you to be led by any inference into concluding that this Government is trying to tell the League of Nations what to do. The League, without advice from this Government, should make its own decisions.

Advance information as to any decision the League may have in view would be appreciated by the Department, to be in time for any further instructions to you. [End paraphrase.]

STIMSON

882.5048/78: Telegram

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

[Paraphrase—Extracts]

BERNE, September 14, 1929—noon.

[Received 12:09 p. m.]

81. Department's 105, September 11, 3 p. m.

(1) I have handed Sir Eric Drummond a copy of the terms of reference, reported by the Chargé in Liberia, to be kept confidential pending receipt of the same from the Liberian representative to the League.

(2) The latter has not yet asked the League to nominate a member for the Commission. The Liberian representative, named Sottile, who formerly represented Nicaragua, on September 6 mentioned a possible investigation of conditions in Liberia, and on September 13 he stated in the 6th Commission that his Government was ready to receive an International Inquiry Commission, to be composed of a Liberian, an American, and a member appointed by the League.

(4) I discussed with Drummond very informally the sort of person who might be nominated. . . . While he was grateful for our suggestions, he reiterated the request he made (see my 61, August 17,

6 [3] p. m.) that he be given as soon as possible an intimation of the kind of man the Department expects to nominate, in order that the League may choose someone of like authority and complementary attributes.

The Secretary General, it may be safely assumed, is quite aware of the advisability for cooperation with the United States in this matter and will do his best to make the investigation entirely successful.

WILSON

882.5048/80 : Telegram

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

BERNE, September 20, 1929—3 p. m.

[Received September 20—12:37 p. m.]

88. Drummond transmits one copy of letter dated September 16 addressed by Sottile, Liberian representative, to the President of the Council. The letter speaks of a "systematically organized campaign" to persuade public opinion and League of Nations that slavery and forced labor are still rife in Liberia; gives résumé of successful efforts of Liberian Government to root out practice; denounces campaign to League of Nations and requests cooperation of League in an "International Inquiry Commission" by appointment one member; states American Government has already accepted request to appoint one member; declares that "in order that the members this Commission may be completely independent of the Liberian Government, my Government has the honor to propose that the League of Nations itself should pay the expenses entailed in the appointment."

Copy by mail.

WILSON

882.5048/82 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, September 21, 1929—noon.

[Received 5:35 p. m.]

50. Last night Barclay informed me he received a telegram from Liberian representative, Geneva, that request of Liberia to League, 6th instant, has been discussed there and League representatives of Belgium, France, Portugal and Spain desire no investigation by the proposed International Commission conditions of compulsory labor for public works Liberia, fear of establishing precedent and the possibility that similar investigations may follow in their colonies [of] such labor, this matter submitted to Council.

Barclay adds his Government will insist on investigation of compulsory labor for public purposes by the International Commission

and if not investigated his Government will have independent investigation.

WHARTON

882.5048/82 : Telegram

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

WASHINGTON, September 24, 1929—5 p. m.

114. Following telegram received from Legation at Monrovia: [Here follows text of telegram No. 50, September 21, 1929, noon, printed *supra*.]

[Paraphrase.] From your 88, September 20, 3 p. m., the Department has assumed that the Liberian Government's request for the League to appoint a Commission member is being acted upon.

You may, in informally conversing with Drummond, point out that, under the terms of reference issued by the Liberian Government, paragraph (d), Liberia has demanded an inquiry into compulsory labor for public purposes as well as private. Since this affects primarily Liberia, there should seem to be no objection to the League granting the request of Liberia, one of its members.

Replying to your 81, September 14, noon, the Department has been unable to select definitely the American Commission member, but as soon as he is chosen his name and biographic sketch will be communicated to you for your information. [End paraphrase.]

STIMSON

882.5048/83 : Telegram

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

BERNE, September 26, 1929—4 p. m.

[Received September 26—12: 37 p. m.]

94. Your 114, September 24, 5 p. m. In final meeting of 57th session of Council yesterday afternoon *rapporteur* moved and Council adopted the following resolution:

“The Council:

(1) Approve[s] the report by the British representative.

(2) Request[s] the President of the Council, assisted by the British representative as *rapporteur*, to proceed on behalf of the Council to the appointment of a member of the International Commission set up by Government of the Liberian Republic in order to inquire into the alleged existence of slavery or forced labor in the territory of Liberia.

(3) Decides that the expenses incurred by the person thus appointed in the execution of his mission shall, up to the sum of 50,000 Swiss francs, be borne [on] item 3 of the budget for the current year: ‘Unforeseen subjects, special vote of the Council.’”

There appears to have been no opposition nor was any reference made which would limit the investigation to "compulsory labor for public purposes".

Copy of *rapporteur's* statement by mail.²⁹

WILSON

882.5048/120 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, November 4, 1929—midnight.

[Received November 5—8:21 p. m.]

59. President's message to the Liberian Legislature October 30, 2 p. m., considers in general terms slave trade question and quotes selected extracts of first notes exchanged between the Government of Liberia and this Legation. President promises copy which will be mailed.

WHARTON

882.5048/120 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, November 6, 1929—5 p. m.

45. Your 59, November 4, midnight. Did President's message carry any recommendation that Liberia ratify the Slavery Convention of 1926? It is believed that ratification during the present session of the legislature would have a most favorable effect upon world opinion, particularly in view of the important mention made of the Convention in the terms of reference for the forced labor investigation.

STIMSON

882.5048/121 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, November 8, 1929—noon.

[Received 10:30 p. m.]

60. Referring to Department's telegram No. 45, November 6, 5 p. m. President's message recommended that slavery convention of 1926 be ratified during the present session.

WHARTON

²⁹ Not printed.

882.5048/217

Mr. N. E. Nelson of the Firestone Tire & Rubber Company to Mr. Henry Carter of the Division of Western European Affairs

AKRON, 15 November, 1929.

DEAR MR. CARTER: Mr. Firestone, Jr.,³⁰ before sailing for Europe, instructed me to send the enclosed to you, which outlines the position of the Firestone Company with reference to the proposed inquiry on forced labor conditions in Liberia.

Very truly yours,

N. E. NELSON

[Enclosure]

Statement of Firestone Position on Forced Labor Inquiry

AKRON, 11-15-29.

In June, 1924 the Firestone Company first began operations in Liberia³¹ by the employment of 100 laborers to put in condition an abandoned but fully matured rubber plantation of 2,000 acres which the Liberian Government leased to us for experimentation.

In 1926 our agreement for 1,000,000 acres of land on lease for 99 years was ratified³² and we commenced operation on a large scale. During those intervening two years we investigated labor supply and conditions and gradually built up our labor force by the employment of all natives who applied for work.

Knowledge of our enterprise and wage scale spread throughout the interior and when we were ready to enlarge our operations it was only necessary for us to send word into the interior to obtain all the labor we needed. We did this by sending members of our American staff into the hinterland to notify the labor and their chiefs of the opportunity for employment and make such arrangements as were necessary to meet the economic and other conditions of tribal organization which African customs demand.

The Liberian Government is not connected with our labor recruiting except that it notified officially its various commissioners and officials up-country that it was agreeable to allowing the natives to seek employment with the Firestone Company if they so desired. For purposes of interior administration and maintaining an economic balance in the country, the Government desired information as to the numbers and whereabouts of every native employed by Firestone and for this

³⁰ Harvey S. Firestone, Jr., vice president of the Firestone Plantations Company in Liberia and of the Firestone Tire & Rubber Company, Akron, Ohio.

³¹ See *Foreign Relations*, 1925, vol. II, pp. 367 ff.

³² See Agreement No. 2, signed at New York, September 16, 1925, *ibid.*, p. 454; ratified November 10, 1926, *ibid.*, 1926, vol. II, p. 561.

purpose established a Labor Bureau that had been provided for by law some ten years before. To this Bureau the Company has sent each month a complete roll of every native employed, his district, chief and tribe.

There is no contract with the Government or any individual relative to employment with the Company. In many instances the chief of a tribe has informed us through the headman who accompanied a group of laborers from the interior that it was the chief's and laborer's desire that they remain with us only a limited period. If, for some reason, any one or all of the laborers did not desire to remain the entire period stated, they were paid off promptly and allowed to depart without any restraint. In other words, all labor employed by the Company at any time has been voluntary, free to come and go whenever it saw fit. Each laborer is paid individually at regular intervals and he is not allowed to become indebted to the Company.

Many chiefs and their tribes have come voluntarily to the Company's operations and requested permission to settle upon the plantations. Last year there were some 2,000 natives encamped just outside the confines of our operations awaiting an opportunity to secure employment. We have many groups of laborers who have been with us three years or more. Originally they came for a few months trial of the work, but remained with us permanently. Other groups have returned three or four times after visits to their homes in the interior and each time have remained longer periods at work.

We have provided well-built, two-room houses, with porches, running water, good sanitary facilities, in villages of from 16 to 20 houses for our labor upon the plantations. These houses and medical care, including a modern hospital, are free to all native labor. The natives themselves run these communities and maintain law and order. All roads entering and leaving the operations are open and free except the right to search for and confiscate liquor, the use of which is discouraged in every way. Missionaries and other visitors are free at any time to visit the labor and their villages.

In reference to the proposed investigation of forced labor conditions, the Firestone Plantations Company welcomes the inquiry and has already notified the American and Liberian Governments that it will assist the investigation in every way.

882.5048/123 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, November 17, 1929—9 a. m.

[Received 3:20 p. m.]

64. Senator Tubman³³ informs me slavery convention ratified by Senate last Wednesday.³⁴

WHARTON

882.5048/152a : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, December 7, 1929—1 p. m.

53. Please inform the Liberian Government that the President of the United States has nominated Dr. Charles S. Johnson as the American commissioner to serve on the International Commission, which is to be appointed by the President of the Republic of Liberia. The Department will be pleased to learn as soon as possible whether or not Dr. Johnson is acceptable to the Liberian Government, the names of the other two Commissioners whom the Government of Liberia will appoint, when it is expected the Commission will meet and other collateral information. Naturally no announcement is being made here at the present time of Dr. Johnson's nomination.

The following brief biographic data concerning Dr. Johnson is submitted:

Dr. Charles S. Johnson, American negro, born July 24, 1893, graduate of Virginia Union and Chicago Universities; Doctor of Literature degree from Virginia Union University; outstanding investigator; made studies of the negro in Chicago in connection with Chicago Commission on Race Relations and Urban League, also in many other American cities; director of Department of Social Science at Fisk University; compiler of studies of the negro National Research Council; member of Advisory Committee on Interracial Relations of the Social Service Research Council.

[Paraphrase.] You will emphasize with discretion the importance of having the Department notified as soon as possible of the names of the full Inquiry Commission, so that the necessary press announcement may be made. [End paraphrase.]

STIMSON

³³ Senator William V. S. Tubman, Maryland County, Liberia.

³⁴ November 13, 1929.

882.5048/152b : Telegram

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

WASHINGTON, December 7, 1929—1 p. m.

139. Please inform Drummond for his confidential information that the following telegram has just been sent to the Legation at Monrovia:

[Here follows text of telegram No. 53, December 7, 1929, 1 p. m., printed *supra*.]

[Paraphrase.] The Department will be glad to have as soon as possible the name and biographic data of the League's nominee for the Commission. [End paraphrase.]

STIMSON

882.5048/174 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, December 17, 1929—4 p. m.

[Received 10:30 p. m.]

75. Referring to the Department's telegram No. 53, December 7, 1 p. m., and my 73, December 10, 6 p. m.,⁸⁵ Legation informed that:

1. "Government [of] Liberia have no objection to offer to the nominee."

2. Honorable Arthur Barclay, a former President of the Republic, "has been requested to act as the Liberian Commissioner."

3. Liberia not notified of the name Commissioner to be nominated by the League; however, as soon as received Legation will be furnished with full information.

When will League nominate?⁸⁶

WHARTON

APPOINTMENT OF DR. HOWARD F. SMITH OF THE UNITED STATES
PUBLIC HEALTH SERVICE AS CHIEF MEDICAL ADVISER TO THE
REPUBLIC OF LIBERIA

882.124A/48

Memorandum by the Chief of the Division of Western European Affairs (Marriner)

[WASHINGTON,] June 29, 1929.

Mr. Harvey Firestone, Jr., telephoned from Akron to say that they had just received news, as has the Department, of the death of

⁸⁵ Not printed.

⁸⁶ Dr. Sigvald Meek, Norwegian jurist, was appointed by the League of Nations but resigned without going to Liberia. In his place Dr. Cuthbert Christy, British African explorer and expert on tropical medicine, was appointed. The Commission was constituted at Monrovia on April 7, 1930.

Sibley³⁷ and of the French Consul³⁸ in Monrovia of yellow fever. They had likewise heard that the condition of the American Minister remained about the same.³⁹

Mr. Firestone said that there still remained some \$150,000 to \$200,000 on the loan for public improvements and that he thought under the circumstances it would be a desirable idea for this Government to suggest to the Liberian Government that some portion of this money be used to employ a proper Sanitary Engineer or Doctor who should be given sufficient authority to clear up the conditions which bring about recurrent epidemics of yellow fever. He said that on the plantation where the sanitation has been properly cared for, the disease has been practically eliminated, but that Monrovia seems of late to have been suffering more and more and such efforts as the Liberians make are spasmodic and not scientific.

J. T[HEODORE] M[ARRINER]

882.124A/37

The British Ambassador (Howard) to the Secretary of State

No. 368

WASHINGTON, July 3, 1929.

SIR: I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to invite the cooperation of the United States Government in the following matter:

The United States Government will no doubt have learnt, from their Representative in Liberia, of the outbreak of yellow fever which occurred in Monrovia early this year. The Acting British Chargé d'Affaires in Monrovia has reported that not only was there considerable delay in notifying him of this outbreak, but little, if anything has been done to remedy the exceedingly unsatisfactory sanitary conditions which were, without doubt, its primary cause.

In view of the real danger, constituted by these conditions, to the foreign residents in Monrovia, to the shipping calling at the port and to the inhabitants of adjacent foreign territories, His Majesty's Government would be particularly gratified if the United States Government would instruct their Representative in Monrovia to cooperate with the British Chargé d'Affaires in a special effort to bring home to the Liberian Government their responsibilities and obligations in this matter and to induce them to take suitable measures for the improvement of the sanitary conditions in their Capital.

A similar suggestion has been submitted to the French Government; and the British Chargé d'Affaires in Monrovia has been instructed to take action in the sense indicated if and when suitable

³⁷ Dr. James L. Sibley, an American citizen, Educational Adviser to Liberia.

³⁸ P. Jourdain, French Acting Consul.

³⁹ The Minister, William T. Francis, died of yellow fever July 15, 1929.

instructions shall have been received by his United States and French colleagues.

I have [etc.]

ESME HOWARD

882.124A/37 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

[Paraphrase]

WASHINGTON, July 9, 1929—5 p. m.

15. The health situation in Liberia has greatly disturbed the Department, which has discussed the problem with various interested organizations, including the United States Public Health Service. It would appear to be advisable for the Liberian Government to appoint at the earliest possible moment a competent sanitary engineer who would study the problem and devise a comprehensive plan for the avoidance of any recurrence of yellow fever. This work, it is believed, could be finished within a year. Should the Liberian Government request the Department to obtain the services of such a man, he can immediately be found and could start at an early date for Monrovia.

In order to procure a sanitary engineer with suitable qualifications, probably it would be necessary to pay him as much as \$10,000, while another \$5,000 would be required to pay his assistants and supplies.

In explaining this to the Liberian Government, please state the Department's conviction that the Liberian Government will realize how important is such a health measure, which the Department understands is being recommended likewise by the British and French Governments to the Liberian Government.

For your information. The Department feels that the full expense of this measure should be met by the Liberian Government, which should meet also the expense of any permanent organization needed in order to carry on the work necessary to prevent the present situation from recurring. It has been suggested that this expense might, and should, be met from the 1926 loan's unexpended balance. However, if it appears evident that such a course would cause serious impediment to the use of this money for other public purposes, to which commitments have already been made by the Liberian Government, you may in your discretion say that in case a request is made by the Liberian Government to the Department for a sanitary engineer the Advisory Committee on Education in Liberia will gladly contribute half of the amount required for the first year, provided the total expense is not in excess of \$15,000.

The British Embassy in Washington has advised the Department of instructions sent the British Chargé in Liberia to make representations regarding the yellow fever situation to the Liberian Govern-

ment, has invited American cooperation, and has stated that a similar course of action has been suggested to the French Government. You should consult your British and French colleagues at Monrovia and inform them of the substance of the first three paragraphs above, so that the American, British, and French Governments may be able to work harmoniously in their discussions on this matter with the Liberian Government.

STIMSON

882.124A/37 : Telegram

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

WASHINGTON, July 11, 1929—2 p. m.

228. As a result of recent yellow fever epidemic in Monrovia the British Embassy here has suggested that the British, French and American Governments cooperate in impressing upon the Liberian Government the necessity of improving health conditions in Monrovia and advises that a similar suggestion has been made to the French Government by the British Embassy in Paris. The Department is wholly in accord with this suggestion and desires that you so indicate informally to the French Government. You may add that the American Legation at Monrovia has been instructed to make observations in the premises to the Liberian Government suggesting the appointment of a competent sanitary engineer and indicating that this Government is prepared to recommend a man upon the request of the Liberian Government. The Legation at Monrovia has likewise been instructed to consult the British and French Legations there in order that the three Powers may act in harmony in their discussions with the Liberian Government on this matter.

STIMSON

882.124A/37

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, July 12, 1929.

EXCELLENCY: I have the honor to acknowledge your note of July 3, inviting the attention of the Government of the United States to the extremely unsatisfactory health conditions in Monrovia which have resulted in the recent outbreak of yellow fever.

This situation has been a source of grave concern to this Government particularly in view of the fact that the American Minister to Liberia is at present critically ill with yellow fever contracted in the recent epidemic and another American citizen, Mr. James L. Sibley, who had been acting as Educational Adviser to the Liberian Government, died of it on June 28. According to telegraphic advices from the American Legation at Monrovia a sanitary commission

has been established under Mr. John Loomis, the American Financial Adviser to Liberia, and no new cases of yellow fever have been reported since June 26. Nevertheless the situation is far from reassuring and accordingly the American Legation at Monrovia was given telegraphic instructions on July 9 to inform the Liberian Government that this Government is greatly disturbed over the health situation in Liberia and that it would seem advisable that the Liberian Government appoint as soon as possible a competent sanitary engineer to study the question and to devise a comprehensive plan to avoid any recurrence of yellow fever. The Legation will further state that should the Liberian Government request this Government to secure the services of such a man he can be found immediately and could start for Monrovia at an early date. The Legation will add that this Government is convinced that the Liberian Government will realize the importance of such a health measure which it understands is likewise being recommended to the Liberian Government by the British and French Governments.

The Legation has been advised of the interest of your Government in this matter and has been instructed to consult with the British and French Legations in Monrovia informing them of the nature of his observations to the Liberian Government in order that the British, French and American Governments may be able to act in harmony in their discussions with the Liberian Government on this matter.

I am pleased to learn that your Government has already invited the cooperation of the French Government in this matter and I have sent telegraphic instructions to the American Embassy in Paris to second the suggestion to this effect which, I understand, is being made to the French Government by the British Embassy in Paris.

Accept [etc.]

H. L. STIMSON

882.124A/39 : Telegram

The Third Secretary of Legation in Liberia (Wharton) to the Secretary of State

MONROVIA, July 12, 1929—10 a. m.

[Received 11:50 p. m.]

34. Department's 15, July 9, 5 p. m. British Chargé d'Affaires has not received instructions. French representative here is merely a *gérant* Consul just entering upon duties. Acting German Consul has thus far supported program of existing sanitary board.

Yesterday afternoon conference with British Chargé d'Affaires [and] Loomis, [we] concur that it would be best plan is [*sic*] to invite Rockefeller Foundation yellow fever and sanitation expert be sent from Lagos to advise Government. If such expert available, British Chargé d'Affaires and I recommend that matter be taken up with Rockefeller Foundation, New York.

General opinion here British Chargé d'Affaires, Dr. Rice,⁴⁰ Loomis and myself, that the sanitation problem simple question of removable [*removal*] of vegetation, debris and drainage with such cleaning work to be repeated periodically, unless sewer and water systems contemplated.

Loomis contends that such systems financially impracticable and perhaps unnecessary, also worthless without continued supervision and future operation by foreigners. Advisable to use a couple of thousand dollars loan money complete present cleaning up.

Present work of special sanitary board of President's aide-de-camp,⁴¹ Loomis and Secretary Morris,⁴² by Americans, British, and Germans actually directing laborers in the streets cleaning city and back yards. Should sanitation expert be decided upon, to work effectively must be directly under President⁴³ who will be responsible and not under any Cabinet officer.

No action taken yet by me with the Government of Liberia or with French representative. Shall I follow Department's 15?

WHARTON

882.124A/39 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, July 13, 1929—1 p. m.

18. Your 34, July 12, 10 a. m. Department is communicating with Rockefeller Foundation and further instructions will be sent you shortly. However, if it should seem to you desirable, you are still authorized in your discretion to act upon Department's 15, July 9, 5 p. m.

STIMSON

882.124A/39 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, July 18, 1929—5 p. m.

22. Department's 18, July 13, 1 p. m. Rockefeller Foundation states that should an invitation be received from the Liberian Government by their yellow fever commission in Lagos they would be glad to have one of their men visit Monrovia at the first opportunity for conference without expense to the Liberian Government. Foundation states, however, that it will be impossible for them to maintain a man there although they can arrange for occasional visits.

United States Public Health Service emphasizes the importance

⁴⁰ Dr. Justus B. Rice, medical director of the Firestone Plantations Company.

⁴¹ Col. T. Elwood Davis.

⁴² John L. Morris, Liberian Secretary of Public Works.

⁴³ Charles D. B. King.

of the appointment as soon as practicable of a qualified Public Health officer to provide for suitable organization and assistance for the prosecution of the work as a permanent thing after the discontinuance of the present proposed emergency measures and states that it would be glad to assist in procuring a suitable man for this work if requested to do so.

STIMSON

882.124A/43 : Telegram

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

PARIS, July 19, 1929—4 p. m.
[Received July 19—2:08 p. m.]

342. Department's 228, July 11, 2 p. m. Foreign Office states French Consulate at Monrovia has been requested to support representations made by our representative there.

ARMOUR

882.124A/44 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, July 24, 1929—6 p. m.

26. Department's 22, July 18, 5 p. m. Rockefeller Foundation advises that its commission in Lagos has been authorized to send one of its staff to Monrovia upon receipt of an invitation from the Liberian Government.

STIMSON

882.124A/47 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, August 7, 1929—10 p. m.
[Received 10:35 p. m.]

38. Referring to Department's telegram No. 18 [15], July 9, 5 p. m. Secretary of State,⁴⁴ 5th instant, advises that Liberian Government find themselves in accord that a competent sanitary engineer be secured to study health situation Monrovia and to devise a plan to avoid recurrence yellow fever. Government would appreciate good offices of the Department in securing competent man for above purposes.

"It should be understood, however, that the services of the engineer will be retained by the Government only for a period not exceeding twelve or eighteen months, during which a permanent health service will under his advice be set up."

Loomis states that \$15,000 has been reserved, unexpended 1926 loan, for this purpose. We respectfully suggest in view of present financial

⁴⁴ Edwin Barclay.

conditions offered contribution Advisory Committee on Liberian Education be extended at this time through me and added to fund.

Informed Government has invited Rockefeller. President orally informed me engineer will be directly under him until the bureau established.

WHARTON

882.124A/53 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

[Paraphrase]

WASHINGTON, September 17, 1929—6 p. m.

34. Your 47, September 10, 9 a. m.⁴⁵ Owing to the scarcity of personnel, the appointment of a Public Health officer may be delayed. In the meanwhile, however, it is suggested that the Liberian Government may wish to consider the advisability of availing itself of the Rockefeller Foundation's offer to send a man from Lagos at no expense to the Liberian Government. (See Department's 22, July 18, 5 p. m., and 26, July 24, 6 p. m.)

An invitation to the Rockefeller Foundation at this time from the Liberian Government would demonstrate, to both the foreign population and the world, the Government's desire to rid Liberia of yellow fever, while a visit by one of the Rockefeller experts would be a very useful preliminary step in the work which, it is hoped, may be carried on by a duly appointed Public Health officer. These considerations may be discreetly urged upon the Liberian Government.

STIMSON

882.124A/54 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, September 22, 1929—10 p. m.

[Received September 23—8:25 p. m.]

51. Referring to your telegram No. 22, July 18, 5 p. m., and 26, July 24. Dr. Allen Moore Walcott of Rockefeller Commission of Lagos arrived here 12th instant for a survey of two or three weeks. No action has been taken Department's telegram No. 34, September 18 [17], 10 a. m. [6 p. m.]

He leaves me with impression that he will recommend to the Liberian Government the appointment of a sanitary engineer who is United States public health officer, bachelor in active condition, able to travel on foot. He is reluctant to commit himself at this time, as here at the invitation of the Liberian Government to make survey and recommendations.

WHARTON

⁴⁵ Not printed.

882.124A/55: Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, September 24, 1929—midnight.

[Received September 25 (?)—3 p. m.]

52. Referring to the Legation's No. 51, September 22, 11 p. m. Dr. Walcott has seen case one Liberian which he believes is yellow fever. Expresses the hope to prolong visit if further cases of yellow fever appear.

I have informed him of the request to Department for sanitary engineer, and I have no apprehensions whatever that he appreciates necessity of such a measure.

WHARTON

882.124A/57: Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, October 2, 1929—9 a. m.

[Received October 3—11:30 p. m.]

53. Referring to my telegram No. 52, September 24, 12 p. m. No further cases, Dr. Walcott left yesterday for Lagos. His report to be submitted in the near future.

He believes yellow fever has existed here since 1925, and will recommend health officer.

WHARTON

882.124A/1: Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, October 8, 1929—6 p. m.

37. Department's 34, September 17, 6 p. m. United States Public Health Service now advises that it will be able to assign one of its most experienced officers to Monrovia and that arrangements can be made for him to arrive in Monrovia on or about December 1. However, before issuing instructions to the officer in question the Public Health Service feels very strongly—and in this the Department wholly concurs—that it is essential to the successful prosecution of his task that terms of his employment and the scope of his authority be clearly defined in advance. Accordingly, the following memorandum agreement is suggested as appropriate in the circumstances:

"(1) A qualified sanitary and medical officer shall be nominated by the President of the United States to the President of Liberia and shall be appointed by the latter as Chief Medical Adviser to the Republic of Liberia. He will be directly responsible to the President of Liberia and shall be given full authority to make health investigations and surveys and to institute corrective sanitary measures supported by ample police and court authority.

(2) In view of the temporary nature of his employment, the Liberian Government agrees to pay him, aside from his regular salary which he will continue to receive from the United States Public Health Service, a post allowance in monthly installments at the rate of \$3,000 per annum. The Liberian Government further agrees to furnish him with suitable quarters, or if he prefers, commutation in lieu thereof not to exceed the sum of \$800 annually; to furnish suitable medical care and attendance; to reimburse him for actual travelling expenses incurred by him on official duty, and to pay his travelling expenses from his present post to Liberia and for his return to the United States upon termination of his employment in Liberia. He shall likewise be entitled to receive reasonable leaves of absence at full pay.

(3) A fund of \$15,000 shall be made immediately available to him for preliminary surveys and studies and for instituting such corrective sanitary measures as he may deem advisable. Expenditures from this fund shall be made directly upon the sole authority of the Chief Medical Adviser without restriction except that he shall account for his expenditures directly to the President of Liberia.

(4) The Chief Medical Adviser shall draw up a report regarding health conditions in Liberia with his recommendations as to the permanent sanitary improvements and organization which conditions would appear to require, and the Liberian Government agrees that the measures so recommended will be undertaken and effected as early as practicable in so far as they may be economically feasible.

(5) This agreement shall remain in force for twelve months and should no notice of its termination be given within that period shall continue in force indefinitely subject to termination upon three months notice."

In discussing this proposed memorandum agreement with the Liberian Government, you may bring the following observations to its attention in such form as may seem advisable:

a) The Liberian Government will readily appreciate the necessity of giving the Chief Medical Adviser complete authority and full cooperation in all matters relating to the suppression of yellow fever and the eradication of the sanitary conditions which have led to its appearance in Liberia if his undertaking is to be successful. Paragraphs 1 and 3 are based on this premise.

b) A second and corollary premise underlies paragraph 4, namely, that if the appointment of a Chief Medical Adviser is to accomplish the purpose for which it is intended assurance must be had that the sanitary measures and organization inaugurated by him will be put on a permanent basis and that full weight will be given by the Liberian Government to his recommendations for the future prosecution of this work. In this connection, it will be readily recognized that, if yellow fever is to be eradicated in Liberia, the Liberian Government must be prepared to make a substantial financial outlay for sanitary purposes every year.

c) The arrangements as to salary, allowances, et cetera, have in general been framed so as to assimilate the status of the Chief Medical Adviser to that enjoyed by the Financial Adviser as provided under the 1926 Loan Agreement.⁴⁶

⁴⁶ *Foreign Relations*, 1926, vol. II, p. 507.

d) As was stated in the Department's 15, July 9, 5 p. m., the Advisory Committee on Liberian Education is prepared if so desired to furnish funds for combating yellow fever in Liberia up to the sum of \$7500 for the first year, thus leaving \$7500 of the \$15,000 provided for in Article 3 of the memorandum agreement to be furnished by the Liberian Government.

e) The officer whom the United States Public Health Service has recommended for the position is Dr. Howard F. Smith, now on duty at Palermo, Italy. Dr. Smith is 46 years of age, has been 16 years in the United States Public Health Service and is highly considered both professionally and personally. Upon receipt of information that the Liberian Government is agreeable to the proposed memorandum agreement he will be formally nominated to President King by President Hoover following which appropriate instructions will be sent to him to report to Monrovia.

Please cable reply with any comments which may seem appropriate.

STIMSON

882.124A/4 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, October 18, 1929—noon.

[Received 4:14 p. m.]

56. Department's telegram 37, October 8, 6 p. m., complied with yesterday.

It is apparent that Barclay dislikes the following: (1) Second sentence of article 1 of the agreement; (2) article 3, accountability for funds to President; (3) observations, status of officer, paragraph c.

He appreciates seriousness of matter. He seems somewhat fearful to offer substantial *modus vivendi* agreement.

He states that matter will be submitted to President. Personally, he explained that, "in order to conform to existing law, quite likely slight modifications" to the proposed memorandum agreement will be suggested respecting (1) definition of officer's powers, and (2) accountability for funds, article 3.

WHARTON

882.124A/8 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, November 21, 1929—9 p. m.

[Received 9:20 p. m.]

65. Referring to Department's telegram number 37, October 8, 6 p. m. Liberian Government submits following modifications to the proposed memorandum agreement:

First article, second sentence to read: "He will be directly responsible to the President of Liberia and with his approval shall make health investigations and surveys and institute corrective sanitary measures not contrary to the organic and statutory laws of Liberia.

For the enforcement of such corrective sanitary measures the chief medical officer shall be furnished ample police assistance by the Government."

Second article, "reasonable leaves" changed to "a reasonable leave."

Third article, \$15,000 reduced to \$12,000 and add to the end of first sentence: "in keeping with the provision of article one hereof." The second sentence changed to: "This fund shall be operated upon solely by the chief medical adviser who shall account for his expenditures thereunder to the Treasury Department in conformity with the Treasury laws and regulations of Liberia."

Fourth article, add to end of sentence: "and the organic and statutory laws of Liberia will permit."

Fifth article, second clause, changed to: "and should no notice of its termination be given within that period by either parties, shall continue in force for another period of twelve months but subject to termination before the expiration of that period upon three months notice."

Barclay's note states that [he?] accepts in principle and if the modifications acceptable to the Department he will be pleased formally to conclude the agreement.

With reference to offer of the Advisory Committee, Barclay expresses President's appreciation "generous offer but before indicating whether or not the Liberian Government are prepared to accept it, it is desired that conditions on which offer is being made should be fully communicated to this government." In this connection Liberian Government was informed that the committee "is prepared to furnish this sum of \$7,500 for the first year; this will leave \$7,500 of the \$15,000 provided for in article three of the proposed memorandum agreement to be furnished by the Liberian Government."

Report of Dr. Walcott has been submitted to the Liberian Government which states yellow fever here now and recommends person from United States Public Health Service. His report states "laws already on the statute books of Liberia are quite sufficient to deal with this situation if rigidly enforced."

I feel court authority absolutely necessary in article 1. Loomis advises \$18,000 has been stipulated for sanitation in proposed budget as drafted.

WHARTON

882.124A/11 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, November 23, 1929—6 p. m.

50. Your 65, November 21, 9 p. m.

(a) The Department has consulted with the United States Public Health Service and finds the Liberian modifications acceptable with the single exception of the reduction of the amount of the fund mentioned in Article 3 from \$15,000 to \$12,000. Public Health Service

advises that \$15,000 represents a minimum estimate of the amount needed and doubts whether substantial results can be reasonably expected from a smaller expenditure. You should so advise the Liberian Government making appropriate reference to the \$18,000 provision in the proposed budget. If, however, you become convinced that the Liberian Government will not commit itself definitely at this time to the larger sum, you are then authorized to suggest that Article 3 be framed to read as follows:

“A fund of \$12,000 shall be made immediately available to him for preliminary surveys and studies and for instituting such corrective sanitary measures as he may deem advisable in keeping with the provision of Article 1 hereof. An additional amount of \$3,000 shall be provided later if Chief Medical Adviser should find the sum of \$12,000 insufficient for these purposes and should so certify to the Liberian Government. This fund shall be operated upon solely by the Chief Medical Adviser who shall account for his expenditures thereunder to the Treasury Department in conformity with the Treasury laws and regulations of Liberia.”

You should report by telegraph as soon as agreement on this point has been reached so that Dr. Smith may be instructed to proceed to Monrovia without further delay.

(b) Department does not feel that court authority need be expressly stipulated in the agreement but will naturally expect the Liberian Government and its law officers to give their active support to the Chief Medical Adviser in any court actions which may arise out of his activities, and you may so advise the Government informally.

(c) You may advise the Liberian Government that the offer of the Advisory Committee is made subject only to the condition that its contribution of \$7500 be placed completely at the disposal of the Chief Medical Adviser for use in yellow fever prevention work.

STIMSON

882.124A/14 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, December 3, 1929—9 p. m.

[Received 10:30 p. m.]

68. I have complied with Department's 50, November 23, 6 p. m.

(a) Submitting only the \$15,000 fund and not article 3 as quoted therein. Barclay expresses that Government may agree to the \$15,000 and he promises to reply within a day or two.

(b) Expresses agreement with expectation of Department on court authority.

(c) He temporarily defers answer to Advisory Committee offer stating that he will advise me at an early date but this will not delay agreement sanitary engineer.

WHARTON

882.124A/19 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, December 23, 1929—6 p. m.

[Received December 24—11:48 p. m.]

Convinced Liberia will not commit itself definitely at this time to the \$15,000 in article No. 3 as submitted and reported in my 68, December 3, 9 p. m. I have submitted alternate proposal article 3 as quoted in the Department's 50, November 23, 6 p. m.

Barclay states that if following form of article 3 meets with the approval of the Department, instruction may be issued sanitary engineer to proceed to Monrovia. Second sentence of article No. 3 to read as follows: "An additional \$3,000 shall be provided should the chief medical adviser satisfy the Liberian Government that the sum of \$12,000 is insufficient for these purposes." In the [last?] sentence change "thereunder" to "there out."

WHARTON

882.124A/20 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, December 27, 1929—6 p. m.

57. Your December 23, 6 p. m. Form of Article 3 as changed by Barclay satisfactory.

For your information Dr. Smith of Public Health Service sails for Monrovia from Rotterdam on January 3.⁴⁷ (See Department's telegram No. 37, October 8, 1929, Paragraph 5 (e).)

STIMSON

⁴⁷ Arrived at Monrovia on January 20, 1930. His appointment was approved by President Hoover on December 5, 1929.

LUXEMBURG

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND LUXEMBURG, SIGNED APRIL 6, 1929

711.50a12A/1: Telegram

The Ambassador in Belgium (Gibson)¹ to the Secretary of State

BRUSSELS, September 1, 1928—1 p. m.

[Received September 1—9:15 a. m.]

57. Luxemburg Prime Minister inquires whether we would be disposed to sign with Grand Duchy of Luxemburg treaty of arbitration similar to those proposed to other countries. Request early reply.

GIBSON

711.50a12A/1: Telegram

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

No. 148

WASHINGTON, September 11, 1928.

SIR: The Department refers to your telegram No. 57, September 1, 1 p. m. and to its telegraphic reply thereto of September 4, 1928,² on the subject of the inquiry of the Prime Minister of Luxemburg whether this Government would be disposed to sign a treaty of arbitration with the Grand Duchy of Luxemburg.

There are enclosed copies of draft texts of arbitration and conciliation treaties³ similar to those which have recently been proposed by this Government to about thirty and about twenty other countries, respectively. In order to preserve uniformity with the communications which have been addressed to representatives of other countries at Washington in transmitting similar proposals to them, it is suggested that, in sending the draft texts to the Government of Luxemburg, you make use of a note substantially as follows:

Under instructions from my Government I have the honor to transmit herewith for the consideration of Your Excellency's Government and as a basis for negotiation, drafts of treaties of arbitration and of conciliation between the United States and Luxemburg.

Both of the proposed treaties are identical in effect with treaties of arbitration and of conciliation which were signed at Washington on May 5, 1928, by representatives of the United States and Ger-

¹The Ambassador in Belgium is also accredited as Minister to Luxemburg, with residence in Brussels.

²Not printed.

³Draft texts not printed.

many,⁴ and with similar treaties which have recently been concluded between the United States and other countries. The draft arbitration treaty resembles in some respects the arbitration treaties concluded between the United States and many countries. The draft arbitration treaty resembles in some respects the arbitration treaties concluded between the United States and many countries beginning in 1908, but represents, in the opinion of this Government, a definite advance over the earlier formula. Substantially in the form submitted herewith, treaties have, during the last few months, been signed by the United States with France, Italy, Germany, Denmark, Finland, Austria, Czechoslovakia and Poland, respectively.

The draft conciliation treaty is in all respects similar to the conciliation treaties negotiated in 1913 and 1914 by this Government and made effective with many countries. During recent months such treaties have been signed by the United States with Germany, Finland, Austria, Czechoslovakia and Poland, respectively.

I feel that the Governments of the United States and Luxemburg have an opportunity, by adopting treaties such as those suggested herein, not only to promote friendly relations between the peoples of the two countries, but also to advance materially the cause of arbitration and the pacific settlement of international disputes. If the Government of Luxemburg concurs in this view and is prepared to negotiate treaties along the lines of the two drafts transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

Accept, Excellency, the renewed assurances of my highest consideration.

I am [etc.]

FRANK B. KELLOGG

Treaty Series No. 825

*Arbitration Treaty Between the United States of America and Luxemburg, Signed at Luxemburg, April 6, 1929*⁵

The President of the United States of America
and

Her Royal Highness the Grand Duchess of Luxemburg,

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

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

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

⁴ *Foreign Relations*, 1928, vol. II, pp. 867, 869.

⁵ In English and French; French text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, May 28, 1929; ratified by Luxemburg, August 30, 1930; ratifications exchanged at Luxemburg, September 2, 1930; proclaimed by the President, September 8, 1930.

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

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

The President of the United States of America

Mr. Edward Lyndal Reed, Chargé d'Affaires a. i. of the United States of America,

Her Royal Highness the Grand Duchess of Luxemburg

Mr. Joseph Bech, Minister of State and President of Government,

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

ARTICLE 1

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

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

ARTICLE 2

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

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

b) involves the interests of third Parties,

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

d) depends upon or involves Luxemburg's policy of neutrality,

e) depends upon or involves the observance of the obligations of Luxemburg in accordance with the Covenant of the League of Nations.

ARTICLE 3

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Her Royal Highness the Grand Duchess of Luxemburg in accordance with the constitutional law of Luxemburg.

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

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

Done at Luxemburg, in duplicate, this sixth day of April one thousand nine hundred and twenty-nine.

[SEAL]

EDWARD LYNDAL REED

[SEAL]

BECH

Treaty Series No. 826

Conciliation Treaty Between the United States of America and Luxemburg, Signed at Luxemburg, April 6, 1929 ⁶

The President of the United States of America
and

Her Royal Highness the Grand Duchess of Luxemburg,

Being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace,

Have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries,

The President of the United States of America,

Mr. Edward Lyndal Reed, Chargé d'affaires a.i. of the United States of America

Her Royal Highness the Grand Duchess of Luxemburg,

Mr. Joseph Bech, Minister of State and President of Government,

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

ARTICLE 1

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

⁶ In English and French; French text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, May 28, 1929; ratified by Luxemburg, August 30, 1930; ratifications exchanged at Luxemburg, September 2, 1930; proclaimed by the President, September 8, 1930.

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

ARTICLE 2

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE 3

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

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

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall shorten or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE 4

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Her Royal Highness the Grand Duchess of Luxemburg in accordance with the constitutional law of Luxemburg.

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

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

Done at Luxemburg, in duplicate, this sixth day of April, one thousand nine hundred and twenty-nine.

[SEAL]

EDWARD LYNDAL REED

[SEAL]

BECH

MEXICO

THE INSURRECTION IN MEXICO

812.113/10446 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, February 11, 1929—5 p. m.

[Received February 12—1:58 a. m.]

18. This morning Estrada, the Acting Minister for Foreign Affairs, requested me to inform the Government of the United States that it was not impossible that there might be some activity with regard to shipments of arms and munitions in the near future in Sonora along the border. It is suggested that the appropriate branches of the Government be confidentially advised.

MORROW

812.113/10446 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, February 12, 1929—1 p. m.

24. Your telegram No. 18, February 11, 5 p. m. The Department is requesting the Treasury and Justice Departments to instruct by telegraph the appropriate officials of their departments along the border to exercise special vigilance with the object of preventing possible attempts to smuggle arms or munitions into Mexico.

KELLOGG

812.00Sonora/14 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, February 14, 1929—1 p. m.

[Received 7:40 p. m.]

23. This morning I was advised by Acting Minister for Foreign Affairs Estrada, at the request of President Portes Gil, that the Govern-

ment of Mexico was preparing to meet any possible emergency that might arise in the State of Sonora as a result of contemplated revolutionary activity on the part of General Topete, Governor of the State of Sonora, and others. The Government of Mexico intended to purchase airplanes and other military material from private manufacturers in the United States and hoped that the Government of the United States would facilitate these purchases.

I suggested to Acting Minister Estrada that the War Department officials responsible for the purchases it was desired to make should confer with the Military Attaché of the American Embassy in Mexico.

In connection with the above, the Department will doubtless have in mind my number 18, February 11, 5 p. m.

MORROW

812.00Sonora/15 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, February 16, 1929—noon.

26. Your telegram No. 23, February 14, 1 p. m. The Department will expedite the issuance of export licenses covering military supplies for the Government of Mexico. If the details concerning shipments be submitted to the Department through Ambassador Téllez, it will insure prompt action.

With regard to the Ambassador's message to Mr. Davidson, the Assistant Secretary of War, the latter advises the Department that Vought, manufacturers of the Corsair plane, are not supplying the War Department.

Consulted Mr. Warner, Assistant Secretary of the Navy, who advises that notwithstanding rule, heretofore strictly enforced by the Navy Department against other powers seeking similar accommodations, not to yield preference to orders for Vought planes from such powers, the Secretary of the Navy, in view of the special circumstances in Mexico, would permit Vought to give preference to the Mexican order for either six or nine planes as Mexico might desire. If you will advise when order is placed, we will inform the Navy Department, which will assist in expediting delivery as much as possible.

Machine guns and bombs, about which Colonel MacNab¹ telephoned, must be obtained through the War Department, which can-

¹ American Military Attaché in Mexico.

not make definite commitment until make of machine guns and exact size of bombs are known. If we are furnished that information, the War Department will immediately advise as to its ability to furnish what is desired.

KELLOGG

812.00Sonora/18 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, February 18, 1929—4 p. m.

[Received 9:20 p. m.]

25. Your 26, February 16, noon. General Juan F. Azcarate, Mexican Air Service, left this city for Washington the evening of February 16 to complete arrangements for the immediate purchase and delivery of nine Corsair airplanes. Upon arrival General Azcarate will report to the Mexican Ambassador and will complete arrangements through him.

The type of machine guns and bombs desired by the Government of Mexico are those for which the Corsair airplanes are equipped. General Azcarate did not know what these were, but the Department will be furnished with detailed information upon his arrival.

MORROW

812.00Sonora/43 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, March 3, 1929—5 p. m.

[Received 7:04 p. m.]

46. I am informed by Estrada that the garrison at Vera Cruz, commanded by General Aguirre, has risen and that there is an uprising in Sonora presumably headed by General Manzo.

The Government has closed the ports of Vera Cruz and Nogales to prevent the entry of arms and munitions.

MORROW

812.00Sonora/479

*Plan of Hermosillo, March 3, 1929*²

[Translation]

ARTICLE 1: The investiture of Citizen Emilio Portes Gil as Provisional President of the Republic is repudiated.

ARTICLE 2: Those members of Congress of the Union who, directly or indirectly, combat or aggressively oppose the present movement shall cease to function as Deputies or Senators.

ARTICLE 3: The members of the Supreme Court of Justice of the Nation who, directly or indirectly, combat or aggressively oppose the present movement, shall cease to hold office.

ARTICLE 4: The Governors, Deputies and Magistrates of the Federal entities who, directly or indirectly, combat or aggressively oppose the present movement, shall cease to function under their respective investitures.

ARTICLE 5: If, at the time this plan triumphs, there be in the Chambers of the Federal Congress a majority of their members who have recognized or sanctioned this movement, measures will be taken opportunely to designate a new Provisional President, in the manner and under the terms prescribed by the Constitution of the Republic.

ARTICLE 6: If, upon the triumph of this movement it be impossible legally to organize the General Congress, the Chief of the movement shall convoke extraordinary elections of Deputies and Senators as soon as possible, and shall dictate the pertinent measures for the complete and prompt reestablishment of Constitutional regime in the country.

ARTICLE 7: In case the Supreme Court of Justice of the Nation be disintegrated, the Provisional President who may be appointed by the Congress shall proceed, opportunely and legally, to the reintegration of said tribunal.

ARTICLE 8: If, with the success of this movement, the powers of some of the Federal entities should disappear because of their having combatted or been hostile to the present plan, the local Congresses, or, in its proper case, the Senate of the Republic, shall dictate, opportunely, the resolutions pertinent to the reintegration of the same.

ARTICLE 9: In case the Federal Congress shall not be reinstated legally upon the success of this plan, the inherent Chief of this movement shall assume charge of the Executive Power of the Union.

ARTICLE 10. During the period of strife, and until the reestablishment of Constitutional rule in the country, the Citizen Chief of this

² Signed at Hermosillo, Sonora, by a large number of the revolutionary leaders. Copy transmitted to the Department by the Ambassador in Mexico in his despatch No. 1526, March 28; received April 2, 1929.

movement shall be charged with reorganizing, by designation of his own, the Provisional Government, for the management and administration of the public affairs of the country.

ARTICLE 11. The Chief of the movement is authorized to make the designations of Provisional Governors and Chiefs of Operations which he may deem expedient for the control and administration of the various Federal entities and territories, until Constitutional rule in the country shall be reestablished.

ARTICLE 12: The Chief of this movement is likewise authorized to dictate all measures which he may deem necessary to safeguard the national interests.

ARTICLE 13: The organized forces which shall recognize and support the present movement, and those which during the period of strife shall expressly adhere to this plan and subordinate themselves to the Chief of the same, shall constitute the 'Ejército Renovador de la Revolución.'

ARTICLE 14: Citizen General of Division Don Jose Gonzalo Escobar is recognized as Supreme Chief of this movement and of the 'Ejército Renovador de la Revolución.'

ARTICLE 15: The Chief of the movement and General in Chief of the 'Ejército Renovador de la Revolución' shall have all the powers necessary to direct the military campaign in the country and to dictate all measures of a military character which the success of the movement and the interests of the National shall demand.

.
HERMOSILLO, SONORA, 3d of March, 1929.

612.0023/92

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation]

WASHINGTON, March 4, 1929.

EXCELLENCY: In compliance with special instructions received from my Government, I have the honor to inform Your Excellency that the Federal authorities of Mexico have ordered the custom houses of Nogales and Agua Prieta, State of Sonora, and the Port of Vera Cruz closed on account of the rebellion of the military garrisons at said places.

I avail myself [etc.]

MANUEL C. TÉLLEZ

612.0023/91

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

WASHINGTON, March 4, 1929.

MR. SECRETARY: With reference to my note of this date I have the honor to inform Your Excellency in compliance with special instructions which I have received from my Government that the closing of all frontier ports of the State of Sonora has been decreed.

I avail myself [etc.]

MANUEL C. TÉLEZ

S12.00Sonora/48 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, March 4, 1929—5 p. m.

[Received March 5—4:22 a. m.]

50. The Minister of Finance, Montes de Oca, and the Acting Minister for Foreign Affairs, Mr. Estrada, informed me in the course of a conversation that President Portes Gil was desirous that they outline four policies which the President of Mexico hoped the Government of the United States might be able to adopt in the present condition of affairs in Mexico.

(1) That the embargo on arms from the United States to Mexico be strictly enforced except on specific requests coming from the Government of Mexico.

(2) That all traffic to those border and seaboard ports occupied by revolutionists be closed.

(3) That the Government of Mexico would like to receive assurances that the Government of the United States will sell if necessary, arms or munitions of war to the Federal Government of Mexico.

(4) That the new administration in Washington make some expression indicating a friendly attitude toward the Federal Government of Mexico.

In order to avoid delay I am communicating the above without comment.

MORROW

812.00Sonora/53 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, March 4, 1929—10 a. m. [*p. m.*]

[Received March 5—5:58 a. m.]

54. My 50, March 4, 5 p. m. With respect to the four suggestions of the Mexican Government, as reported, my comment is as follows:

(1) It is my understanding that it would be in accordance with our past [apparent omission] that the Government of Mexico can make purchases of war material in the United States and that a strict embargo will be imposed upon war material destined for the rebel forces. The Government of Mexico feels that the rebel forces in the State of Sonora will make every effort to evade the embargo of the United States. The Department of State, with the cooperation of other interested Departments of our Government, will know best how to make this embargo effective.

2. When Estrada, the Acting Minister for Foreign Affairs, suggested to me this morning that all traffic to those ports under rebel control be closed, I asked him if there was precedent for such a measure. Estrada answered that there were many precedents, and he suggested that since the Government of Mexico had closed these ports of entry, no consular invoices would be issued by Mexican consular officers in the United States for entry through the closed ports. This seems to ignore the main question that the rebels would without doubt admit such goods as they desired without any consular invoices, unless for various reasons the Government of the United States put into force what would amount to a complete economic embargo upon trade with territory in rebel possession. The authorities of the Mexican Government are not interested in a food blockade because there are and will be ample food supplies within territory under rebel control. The authorities are chiefly interested in cutting off financial revenues that would accrue to the forces in rebellion through control of custom houses at the outset. The Department will know whether, in view of its general position on such question, it can comply with the request of the Government of Mexico.

It has not been possible for me to make a study of the questions of international law involved but I shall seek an opportunity tomorrow to obtain from Estrada the precedents upon which he relies. You will be interested in this connection in referring to the decision of the General Claims Commission in the Oriental Navigation Company case, decided October 23 [3], 1928.³

³ See *Opinions of Commissioners Under the Convention Concluded September 8, 1923, as Extended by the Convention Signed August 16, 1927, Between the United States and Mexico, September 26, 1928, to May 17, 1929* (Washington, Government Printing Office, 1929), p. 23.

I submit the request as one that appears to be of great importance to the Government of Mexico especially on account of its moral effect upon other states along the international border that may possibly join the rebel forces. By a stiff enforcement of the embargo upon munitions very liberally defined this same moral effect might be secured.

(3) The Acting Minister for Foreign Affairs stated today to the American Military Attaché that the Government of Mexico may want to purchase from the Government of the United States 10,000 rifles—5,000 for infantry and 5,000 for cavalry. The Government of Mexico prefers seven millimeter caliber rifles. In the event that these are not available then the Government of Mexico would require two million rounds of suitable ammunition in addition to the 10,000 rifles. The Acting Minister for Foreign Affairs desires to know upon what conditions and terms the rifles can be obtained. It is my understanding that the sale of such rifles by our Government direct to the Government of Mexico would be in accordance with the precedent established during the De la Huerta rebellion.⁴

(4) Friendly action made public on one or more of the three foregoing points would probably answer the purpose designed to be covered by point 4 while the Government of Mexico feels strongly that a friendly announcement coming from the new administration might have a strong deterrent effect upon some leaders who had not yet taken sides in the revolutionary movement. Prompt action would obviously have a greater effect than later action as the lines are still forming.

MORROW

812.00Sonora/54 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, March 5, 1929—1 p. m.

42. The President desires your comments on your telegram number 50, March 4, 5 p. m., in particular, whether the Government desires the closing of seaboard and border ports in the hands of the rebels to all traffic, and, in general, your recommendations.

KELLOGG

⁴ See telegram of January 16, 1924, to the Consul at Vera Cruz, *Foreign Relations*, 1924, vol. II, p. 430.

812.00Sonora/71 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, March 5, 1929—8 p. m.

[Received March 6—5:15 a. m.]

59. Reference Department's telegram No. 42 of March 5, 1 p. m. With respect to the specific requests of the Government of Mexico reported in my telegram 54, of March 4, 10 p. m., my comments are as follows:

During the past two days life in Mexico City has gone on as usual notwithstanding the fact that there have been wild rumors of various kinds with regard to the success of the revolution. Information obtained directly from General Calles is set forth in my telegram No. 60 March 5, 9 p. m.⁵ which follows. With respect to the military situation, the Military Attaché concurs with me that the information is reliable. Rebels roughly speaking have control of about 10,000 soldiers, which is about one-sixth of regular army of Mexico. Government will, in my opinion, be able to suppress the revolution unless there be further substantial defections. In the event that the present administration should fall, our troubles in the Republic of Mexico would have just begun. As regards the three rebel groups there is no unity of principle or of ambition among them. If the present Government should fall, it is almost certain that the quarrel would begin between the Aguirre group, the Escobar group, and the Sonora group. In that event, the situation would not be very dissimilar to the Villa-Carranza, Zapata period. With respect to request No. 2 of the Government of Mexico, as set out in my telegram No. 50, March 4, 4 p. m., I refrain from making any specific recommendations since the Department of State is more familiar with the precedents bearing on such action under international law than we are here in Mexico City. Respecting all four requests I recommend, however, as friendly action as the President feels justified in taking and at least action equivalent to that taken during the De la Huerta revolution. Such friendly action publicly and properly taken, will, in my opinion, go far to prevent further defections among political leaders and military leaders, especially among such men as Caraveo, the present Governor of Chihuahua, whose untarnished character is well disclosed by the revolution in the message transmitted by your telegram number 43, March 5, 3 p. m.⁵ While no specific request

⁵ Not printed.

has yet been made by the Mexican Government to purchase munitions directly from the Government of the United States, they would like to be assured that they can make such purchases if they should deem it wise to do so. The American Military Attaché has been told that we may shortly expect that such a specific request will be made by the Mexican Government.

MORROW

812.00/29464

Memorandum by the Under Secretary of State (Clark)

[WASHINGTON,] March 5, 1929.

THE PRESENT SITUATION

A. In July last, Obregon, who had been elected President of Mexico to succeed Calles was assassinated. He would have taken office December 1, 1928.

B. His followers were keenly disappointed, many doubtless because of promised offices. Among the more important followers, was Fausto Topete, Governor of Sonora, who apparently hoped to become the leading political figure of Mexico.

C. Seemingly through the plans of Calles, Topete was eliminated as a national power, and returned to Sonora.

D. Portes Gil, Governor of Tamaulipas, was elected Provisional President of Mexico, by the Mexican Congress, in due constitutional form. He took office to hold till February 5, 1930.

E. The Mexican Congress called an election for the Presidency to be held in November 1929 at which time a President is to be elected for the remainder of the Obregon term of six years.

F. Calles declined any position in the Gil administration, but accepted the Presidency of the National Revolutionary Party of Mexico. Later because certain elements of this Party sought to take advantage of his position, in their favor, he resigned.

G. At the time he retired from the Presidency of Mexico, he unequivocally declared he would never again be President of Mexico; he reiterated these sentiments when he gave up the Presidency of the Revolutionary Party. His whole course since his Presidential term expired has been in accordance with these declarations.

H. Calles' whole effort seems to have been directed to securing a fair and free choice among the various aspirants for President. He has asserted he believes the Presidency should go to a civilian, not to a military man.

I. At the time he retired from the Presidency Calles called all the principal military leaders together, and committed them individually to this program.

J. There are five principal candidates for the Presidency.

1. Aaron Saenz, Governor of Nuevo Leon; formerly Minister of Foreign Affairs of Mexico; Campaign manager of Obregon.

2. Pascual Ortiz Rubio, Minister to Germany and Ambassador to Brazil. Portes Gil offered him Ministry of Gobernacion, but he declined appointment.

The two foregoing were candidates for nomination by the National Revolutionary Party, which is holding its Convention at Queretaro.

3. Giliberto Valenzuela, former Minister of Gobernacion under Calles, and Minister to London under Calles.

Formerly close personal friend of Calles, Fausto Topete, who is perhaps the leader of the present revolution, is standing for Valenzuela.

4. Jose Vasconcelos, former Minister of Education under Obregon.

5. General Antonio Villareal, connected with Serrano-Gomez conspiracy of last year. Both Vasconcellos and Villareal are seeking nomination of Anti-Reelection Party. Both in Mexico now as a result of amnesty by Portes Gil.

K. The Revolutionary Party is holding its nominating Convention at Queretaro, beginning on March 1, 1929.

It appearing that Rubio had a majority, Saenz bolted the Convention, on the ground that the Credential Committee had disqualified some of his delegates, and threatened to hold a rump Convention. Saenz has, since the outbreak of the present revolution, withdrawn as a candidate, and pledged his loyalty to the Government.

L. Revolutionary activities have broken as follows:

(1) General Aguirre revolted at Vera Cruz on March 3; light firing between the Mexican Navy and soldiers on shore; no casualties; old Government employees still working. There is apparently some uncertainty as to whether the Navy is revolutionary or loyal; it has usually been loyal. Aguirre told the American Consul that the movement was mainly directed against Rubio as Presidential candidate and that if he would withdraw the trouble would end. The consul reports:

(2) Situation in Sonora:

Nogales

At 5 p. m. on March 3, Nogales was seized. Consul Damm reported it as follows:

"My telegram March 3, 6 p. m., brief report of seizure by the local garrison of custom house at Nogales and outbreak of revolt against the government this afternoon. Details herewith:

"Seizure effected by General Manuel Aguirre, Commander of Federal forces Northern Sonora, acting under instructions General Francisco Manzo and by local 64th regiment. Seizure came suddenly, no disturbance; martial law not declared. Aguirre assures business and traffic not to be interrupted. Manzo with additional forces coming up tomorrow; will make announcement to press reason and purpose of revolt. Aguirre names following States so far in the movement:

"Vera Cruz, Durango, Oaxaca, Chihuahua, Laguna region of Coahuila, Sonora. Revolt here appears to be military coup only, no general approval of civil populace which is quiet though anxious. All Federal officers under arrest, must decide tomorrow whether to join revolutionists. Governor Topete one of the revolutionary leaders.

"Embassy informed."

Agua Prieta

The Consul reports:

"City of Agua Prieta captured by local civil and military authorities by order of Governor of Sonora. No fighting occurred, turnover made peacefully. Am informed that entire State of Sonora has been taken in the same manner. It is presumed to be part of general revolutionary movement by Gilberto Valenzuela."

812.00Sonora/90

The Secretary of State to the Attorney General (Mitchell)

WASHINGTON, March 6, 1929.

SIR: I have the honor to call to your attention the situation which now exists in Mexico.

This morning's despatches bring to the Department information that the revolutionists operating in Sonora have appointed a Mr. . . . as a "commercial Agent at Douglas, Arizona, for revolutionary government". I call the foregoing to your attention as indicating a possible intention by revolutionary leaders to carry on in this country activities which might be in violation of so-called neutrality statutes.

I have the honor to request that you instruct the representatives of your Department, particularly in the States along the Mexican border, to exercise the greatest vigilance to the end that the provisions of the "neutrality" statutes shall be strictly observed. I regard this as of the utmost importance.

I have [etc.]

FRANK B. KELLOGG

812.00Sonora/103 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, March 6, 1929—7 p. m.
 [Received March 7—7:27 a. m.]

67. Minister Estrada informed Colonel MacNab that the Mexican Government desired to purchase certain arms and ammunition from the American Government and that he was sending two army officers to confer with MacNab as to what request to make. These officers stated that the Mexican Government desires to know if it can secure from the United States Government ten thousand rifles preferably Springfields and if not Springfields then Enfields and also ten million rounds of ammunition preferably of recent manufacture for these rifles. This will be in substitution of the seven millimeter rifles referred to in my 54, March 4, 10 p. m. The Mexican Government would be glad to know at once the prices and conditions of payment. If purchase is made immediately, delivery will be desired probably through Tampico.

The Mexican Government advises us that in addition to the nine airplanes, all ordered from the Chance Vought Company and referred to in our 25, February 18, 4 p. m., they will desire five additional pursuit planes and that it will also desire bombs for these planes. They are making inquiry of various airplane manufacturers in the United States but if more prompt delivery can be secured from our Government they will probably desire to arrange a purchase of these five planes directly from our Government.

MORROW

812.00Sonora/254

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

WASHINGTON, March 7, 1929.

MR. SECRETARY: With reference to my note of the fourth instant I have the honor to communicate to Your Excellency that the Government of Mexico has decreed the closing of the seaports in the State of Sonora.

I avail myself [etc.]

MANUEL C. TÉLEZ

812.00Sonora/127: Telegram

The Consul at Vera Cruz (Myers) to the Secretary of State

VERA CRUZ, March 7, 1929—5 p. m.

[Received 8:18 p. m.]

Vera Cruz again under Federal control. Custom house and other government offices opened this afternoon by former Federal employees. Federal troops on the way to Vera Cruz from Jalapa and Cordoba. Colonel Cervantez has the situation in hand and there is no disorder. Municipal authorities resumed duties. Embassy informed.

MYERS

812.00Sonora/221

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 1475

MEXICO, March 8, 1929.

[Received March 12.]

SIR: With reference to the second point of the four policies which the Mexican Government suggests that the American Government adopt in connection with the present revolution, mentioned in the Embassy's telegrams Nos. 51 [50] of March 4, 5 p. m.; 54, March 4, 10 p. m.; 59, March 5, 8 p. m., I have the honor to transmit herewith a copy and translation of a memorandum dated March 5, 1929, sent to me yesterday by the Acting Minister for Foreign Affairs.

I have [etc.]

DWIGHT W. MORROW

[Enclosure—Translation]

The Mexican Acting Minister for Foreign Affairs (Estrada) to the American Ambassador (Morrow)

FIRST:

The internal legislation of Mexico (article 6 of the General Customs Regulations) authorizes the Government of the Nation to close temporarily the customs established at their ports of entry.

This disposition of the Mexican laws is based upon the principles of Public Law, according to which a sovereign Nation can impose duties on merchandise entering or leaving its territory, which implies the right to indicate the points through which the said entrance or exit shall lawfully be effected.

SECOND:

This power had by the Government of a Sovereign State to designate in time of peace the points through which international traffic

can be effected, implies the power of the same Government both to establish and to close ports and consequently also to close ports of entry when the latter are not under Government control, with the principal object of preventing prejudice to the National Treasury which orders the closure or to prevent also the development of unfortunate situations.

THIRD:

It is said that this power of the Government is merely an internal question, which International Law respects provided a reasonable use is made thereof and opportune notice is given neutrals of the closure of the port in order that they may suffer no unnecessary prejudice. Such is the opinion maintained by E. N. Politis, in his Course of 1925, at the Paris Academy of International Law.

FOURTH:

In support of this thesis there can be advanced the example of the United States during the war of "secession" when they declared the Confederate ports closed.

FIFTH:

There can likewise be cited the so-called "Coast of Portendick" cases, between France and England, decided in 1843 by the King of Prussia, and that of the closure of the port of Buenos Aires, between Great Britain and the Argentine Republic, decided by the President of the Republic of Chile, in which the thesis was adopted that the closure of a port to international commerce in case of civil war is lawful.

SIXTH:

In the case of the "Oriental Navigation Company", between the United States and Mexico, decided October 3, 1928, it was likewise maintained that the authorities of a country are not obliged to permit the unloading and subsequent loading of a neutral vessel engaged in traffic with a port in control of insurgents without the customs documents required by the internal laws, thus implicitly confirming the power which a State has to close its ports to international traffic.

SEVENTH:

The closure of ports controlled by rebel factions cannot be likened to a blockade in time of war. In the first place, a blockade is established for the purpose of destroying the commerce of the one against whom the blockade is effected, while the closure of a port controlled by rebels is decreed principally to prevent prejudice to the Treasury. In this sense, a blockade constitutes an act of an international nature, while the closure of a port is merely an internal question.

EIGHTH :

Moreover, it is essential to make a blockade in time of war effective, for since the States not engaged in the conflict should remain neutral, they could not heed the indication of one of the belligerents not to do business with the other without the latter considering such abstention an act of hostility. In the case of the closure of ports occupied by rebels who have not been recognized by the belligerents, nations on friendly terms with the lawful Government should heed the latter's indications without regard for the opinion of the factions.

NINTH :

While the third nations are obliged and have the right to protect their own commerce, this is true only in case said commerce is lawful and conducted in accordance with the laws of the country with which said business is done.

It is undoubtedly contrary to the peace of the world to disregard the losses and damages caused a nation in a civil conflict to favor the business interests of a few foreigners in the territory controlled by rebels.

MEXICO, March 5, 1929.

812.00Sonora/133 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., March 8, 1929—6:30 a. m.

[Received 9:25 a. m.]

Battle for possession of Juarez began 6 a. m., rebels apparently approached from up and down river, fighting fiercely in center of city; shots plainly heard in El Paso. Have removed current archives of Consulate to El Paso.

DYE

812.00Sonora/143 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., March 8, 1929—10:30 a. m.

[Received 2:14 p. m.]

Battle continues but rebels have taken nearly whole city of Juarez. Federals hold only strip of territory along river bank. Rebels avoiding firing into American territory though one known casualty here. General Ramos, commander Federals, has just called for conference with Mexican Consul General, El Paso.

DYE

812.00Sonora/150 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., March 8, 1929—12:30 p. m.

[Received 4:03 p. m.]

Armistice called. Reliably informed that Roberto Pesquiera flew from Mexico City via San Antonio to advise General Ramos to cross with troops to El Paso and be interned. Ramos now at Mexican Consulate General, El Paso. Casualties reported twenty-seven killed, fifty wounded.

DYE

812.00Detention/2 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., March 8, 1929—3:30 p. m.

[Received 6:54 p. m.]

Agreed between commanders that General Ramos and his Federal troops cross into United States and be interned. This to proceed at once. Fort Bliss military police in charge of the plan.

DYE

812.2311/522

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

No. 1343

WASHINGTON, March 8, 1929.

MR. SECRETARY: I have the honor to inform Your Excellency that the Federal troops which were defending Ciudad Juarez, desirous of avoiding any incident which might happen during combat with the rebels, in view of the proximity of the United States frontier decided to cease fighting in the attack which the rebels made at that place today. As said troops to the number of two hundred (200) must have instructions to reconcentrate at Eagle Pass, I very respectfully beg Your Excellency that as urgently as practicable and if possible by telegraph the consent of the authorities of the State of Texas be obtained so that the mentioned troops may proceed to Eagle Pass across territory of that State, on the understanding that they will have complied with the customary requirements.

I extend [etc.]

MANUEL C. TÉLEZ

812.00Sonora/169 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, March 8, 1929—7 p. m.

73. Department's 63, March 7, 7 p. m.,¹ last paragraph. Having been informed that heavy field artillery and armored cars of the United States Army were being moved up to or near the international bridge of El Paso, I had an interview with the Secretary of War and Chief of Staff yesterday. The War Department has since sent a telegram to the Commanding General, Eighth Corps Area, in effect as follows:

"Should hostilities break out between Mexican forces near the border, you will make every effort to cause American citizens to withdraw from and remain out of the danger zone during the fighting. The falling of stray and accidental bullets on territory belonging to the United States will not be cause for our troops to return fire and it will not be done. United States troops will not fire upon Mexican troops except upon the following conditions: To return fire directed maliciously upon United States troops or persons on United States territory, or if necessary to drive armed Mexicans out of United States territory. You should endeavor to communicate with both sides before they come in contact and inform them that American life on the American side must not be endangered before any fire is delivered, in accordance with the above restrictions. When American life is being endangered you should notify both sides that unless such fire ceases you will take the necessary action for protection. You will make no deployment or display of troops in advance of actual necessity in accordance with the above limitations for their employment."

The telegram of Major General Lassiter to the War Department, to which the above is in reply, is as follows:

"Very early this morning General Moseley reported that battle between Federal forces in Juarez and rebel forces advancing from the south appeared imminent. General Moseley anticipated that if battle took place in Juarez, life and property in El Paso would be endangered and he requested specific authority to take action necessary to fully safeguard American interests, moving troops into Mexican territory if necessary. The following telegram was sent to him:

"With reference to your telegram you should endeavor to communicate with both sides before they come in contact and inform them that American life on the American side must not be endangered. When American life on the American side is being endangered by actual fall of projectiles it is incumbent upon you to take the necessary measures to safeguard American life. You should, however, notify both sides that American life is being endangered and that unless such fire ceases you will take the necessary action for protection. It may be possible by artillery fire to drive back the side producing the dangerous fire and thus avoid crossing the border, but in case of actual necessity and where all other means have failed the tactical movements essential to accomplish the mission will be paramount consideration regardless of the boundary line. It is most essential that you avoid taking sides between the two forces, or showing special regard for either."

KELLOG

¹ Not printed.

812.113/10455b : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 8, 1929—midnight.

81. Department is today despatching following telegram to all consuls in Mexico except Mexico City:

"Following for your information. The Department of State is not at present issuing export licenses covering shipments of arms or munitions of war destined to points in Mexico not controlled by Mexican Federal forces and is so advising interested inquirers. Furthermore, restrictions on the exportation of commercial aircraft into Mexico which were suspended on March 23, 1928,⁸ primarily with a view to stimulate and encourage commercial aviation, have been reimposed for the time being.

Licenses are however being issued for the exportation of arms, munitions, and other war material destined for the use of the Mexican Government and favorable consideration is being given to requests for the exportation of explosives and explosive ingredients to be used for industrial purposes provided they are destined to points in Mexico controlled by Mexican Federal forces; furthermore the President has today announced to the press that this Government will sell arms and ammunition to the Mexican Federal Government."

KELLOGG

812.00Sonora/181 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., March 9, 1929—11 a. m.

[Received 6:20 p. m.]

From Myers, Chihuahua, March 8, 6 p. m.

Revolutionary forces captured Ciudad Juarez today and it is announced that telegraph, mail, and services have been renewed. Warning yesterday morning of General Moseley to the Governor of Chihuahua made a very bad impression.

Change subject. . . . Myers.

DAMM

612.0023/86

The Mexican Ambassador (Télléz) to the Secretary of State

[Translation]

WASHINGTON, March 9, 1929.

MR. SECRETARY: In compliance with special instructions which I have received from my Government I have the honor to inform

⁸ See telegram No. 78, March 23, 1928, to the Ambassador in Mexico, *Foreign Relations, 1927*, vol. III, p. 246.

Your Excellency that the Federal authorities of Mexico have decreed the closing of the customhouses on the frontier of Chihuahua because military garrisons of that State are in revolution.

I avail myself [etc.]

MANUEL C. TÉLLEZ

812.00Sonora/352

The Vice Consul at Vera Cruz (Myers) to the Secretary of State

No. 1035

VERA CRUZ, March 9, 1929.

[Received March 20.]

SIR: I have the honor to report that since the morning of the sixth, when a part of the rebel forces of General Jesús M. Aguirre mutinied, this Consulate, assisted by the Spanish, Cuban, French and Belgian consulates, took a very active part in restoring Veracruz to a normal condition.

On Wednesday afternoon, at three o'clock, General Aguirre telephoned to me at my home, and requested me to go to his headquarters at the Terminal Hotel in order to advise him on several matters. I immediately left for his headquarters, being delayed considerably on the way on account of the danger from flying bullets. On my arrival, the General requested me to advise him on what he should do. I replied that since the trouble was between two warring Mexican factions, I did not feel that I should give him my advice. However, I told him that if he intended to attack the Third Battalion, which had taken up strategic positions in the Aquiles Serdán hospital, the Naval Academy and house tops of private homes in a district where many foreigners lived, I would have to insist that sufficient time be given to remove the foreigners in that section. General Aguirre stated that he did not wish to cause the loss of lives; and I suggested that he also consult with the Spanish, Cuban and French Consuls. He said that he would consider doing so and would advise me at the Consulate—which, however, he did not do. About four in the afternoon the French Consul telephoned to me at my home and asked me if the Consular Corps could do anything to prevent the loss of lives and to protect the foreigners. I told him that I was awaiting word from General Aguirre, and that if the French Consul would arrange for the other Consuls to meet at the American Consulate, we would all go to the General's headquarters and endeavor to effect some satisfactory arrangement. The Consular Corps received General Aguirre's assurance that he would not attack the Federal troops that night provided that Lieutenant Colonel Cervantes, the commander of the Federal forces, would remain in his position.

General Aguirre also tentatively promised that he would leave the city on the steamship *Morazan*, if it could be arranged with the steamship agent for the boat's sailing. He stated that if he left on the *Morazan* he would send all his forces out of the city. However, the Consular Corps was unable to make the arrangements with the steamship company's agent, for the reason that it was impossible to get into the lines of the Federal troops. The interview with Lieutenant Colonel Cervantez was made after nightfall.

General Aguirre left during Wednesday night. In the early morning of Thursday the Consular Corps obtained from the Federal commander guarantees for the protection of all the civilian population of the city. The commander also promised to send out patrols and order the closing of the saloons. Arrangements were also made to open the Federal, State and Municipal offices, and for the former Federal employees to return to their posts. There is enclosed herewith a copy of the Consular Corps' petition to the Colonel.⁹ I regret that a translation cannot be made at this time on account of the vast amount of accumulated work and small staff of this office.

The people and the press of Veracruz are very grateful for the intervention of the Consuls which directly led to the saving of lives and property, and many Mexicans have personally expressed to me their thanks for the good results obtained by the Consuls.

I have [etc.]

WILLYS A. MYERS

812.24/724

Memorandum by the Under Secretary of State (Clark) of a Telephone Conversation With the Ambassador in Mexico (Morrow), March 10, 1929

Ambassador Morrow telephoned last evening and, in addition to covering the military situation (the most important points of which appear in the morning press), he communicated as follows:

(1) He asked for, and I secured for him, authorization for Colonel McNab, Military Attaché to Mexico, and now in Mexico City, to accompany Mexican Federal officers by airplane today (March 11) to Brownsville, Texas, and thence to San Antonio, Texas, for the purpose of arranging for the shipment of certain supplies to Mexico. Attached is the War Department memorandum giving authority for the trip.⁹

(2) The Ambassador stated that he had advised the Mexican Government to make all purchases through Ambassador Téllez in Washington.

⁹ Not printed.

(3) He suggested that we make the contract for these arms upon the same terms as they were granted in 1924 when the De la Huerta revolution was on. These terms he understood to be a certain payment down and installment payments from then on till full payment had been made. The Ambassador felt that the claim for this material should have preferential treatment over any and all other claims.

The Ambassador understood that an attempt was to be made to purchase 3,000 rifles with accompanying ammunition. He stated that he was under the impression that the army officials had wanted considerably more but had been held in check by Montes de Oca, Secretary of the Treasury.

J. R[EUBEN] C[LARK]

812.00Sonora/187 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., March 10, 1929—4 p. m.
[Received 10:43 p. m.]

Have verified deaths Lydia Rodarte, American, two years old, in El Paso and Theodore Barnes, American adult non-combatant in Juarez, due directly bullets in battle of 8th instant, also serious wounding [of] Luis Chavez, American, six years old, El Paso. Thirty-seven Federal officers, including three generals, two hundred sixty-seven men and sixty-three women and children disarmed and given asylum by General Moseley at Fort Bliss, are being splendidly cared for and are contented and grateful.

DYE

812.113/10459

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation]

No. 1382

WASHINGTON, March 11, 1929.

MR. SECRETARY: I have the honor to advise Your Excellency that our Consul at Naco, Arizona, informs me that the Manager of the Cananea Consolidated Copper Company is intending to obtain a permit to ship a carload of dynamite into Mexican territory.

In view of the fact that the zone in which the Cananea Consolidated Copper Company operates is under control of the rebels it would be possible that the latter confiscate this explosive, for which reason permit me to request your assistance before the corresponding authority in order that the Cananea Consolidated Copper Company be denied a permit to export the said shipment of dynamite.

Anticipating [etc.]

MANUEL C. TÉLLEZ

812.00Sonora/236: Telegram

The Secretary of State to the Consul at Chihuahua (Myers)

WASHINGTON, March 11, 1929—6 p. m.

Your March 8, 6 p. m.¹¹ is not clear to the Department. What do you mean by General Moseley's "warning" to the Governor of Chihuahua and on whom did it make "a very bad impression"?

See Department's circular of March 8, 8 p. m.¹²

KELLOGG

812.00Sonora/354

Memorandum by the Under Secretary of State (Clark)

[WASHINGTON,] March 12, 1929.

The Mexican Ambassador called informally and left with me a memorandum,¹³ which he will supplement with a memorandum this afternoon, regarding the activities of rebel agents in the United States.

The Ambassador first expressed his appreciation, and the appreciation of his Government, for the attitude of Ambassador Morrow in Mexico and of the State Department here.

He suggested, however, that he would like us to advise the Department of Justice and the Military Intelligence Division of War of the contents of his memorandum. I told him that we would be glad to do so, and that approximately a week ago we had requested the Department of Justice and the War Department to do whatever they might do to prevent violations of our so-called neutrality statutes.

I then referred to the Ambassador's notes regarding closure of ports and regarding the shipment of explosives to Cananea.

As to the first matter, closure of ports, I recited briefly our conduct in the Civil War, pointing out that our seizures for entering those ports were on account of breach of blockade and not breach of a law or Presidential order closing the port. I told him that I thought the Secretary would have to answer his notes and that the Secretary would have to tell him that Mexico could not close ports of which it was not in possession. However, I expressed the hope we would not get into a paper discussion of this or any other question.

With reference to the shipment of explosives to Cananea, I told him that I would recommend to the Secretary that we should not

¹¹ See telegram of March 9, 11 a. m., from the Consul at Nogales, p. 354.

¹² See telegram No. 81, March 8, midnight, to the Ambassador in Mexico, p. 354.

¹³ Dated March 11, 1929; not printed (812.00 Sonora/423). A similar memorandum was presented to the Department under date of March 28, 1929; not printed (812.00 Sonora/441).

permit the Cananea Company to ship any considerable amount of explosives to Cananea, but that Cananea being now quiet and the people working, I thought it wise to maintain them in that condition and frame of mind, and that I should recommend to the Secretary that we permit for the present the Cananea Company to import a week's supply of explosives at a time; but if conditions were to change so that there was likelihood of the rebels seizing the explosives, I would recommend to the Secretary that the supply on hand at any one time at Cananea be further reduced. The Ambassador expressed himself as satisfied with this arrangement.

J. R.^[EUBEN] C.^[LARK]

812.00Sonora/273

The Attorney General (Mitchell) to the Secretary of State

WASHINGTON, March 12, 1929.

SIR: In reply to your letter of March 6, 1929, in reference to the Mexican situation, I have the honor to advise that in accordance with your request telegraphic instructions have been issued to the Department's representatives at Los Angeles, San Antonio, New Orleans, El Paso, New York, and Dallas, to exercise the greatest vigilance to the end that the provisions of the neutrality statutes shall be strictly observed in the present conflict existing in the Republic of Mexico.

Respectfully,

WILLIAM D. MITCHELL

812.00Detention/4

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

No. 1430

WASHINGTON, March 12, 1929.

MR. SECRETARY: I have the honor to request Your Excellency's assistance in approaching the appropriate authority in order that, there being no objection, the volunteers who crossed the border with Federal troops when the rebels took Ciudad Juárez and who are at present detained at Fort Bliss, may be permitted to return to Mexico crossing the frontier at points which they may choose or that they may be permitted to reside at El Paso, Texas until my Government has retaken Ciudad Juárez. Permit me Your Excellency to make this request in view of the fact that the families of the said volunteers reside in Ciudad Juárez and that their transportation to any other place would entail numerous difficulties and inconveniences to them.

Anticipating [etc.]

MANUEL C. TÉLEZ

812.00Detention/6 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 12, 1929—6 p. m.

124. [Paraphrase.] The following is General Lassiter's report regarding the circumstances attending the taking of refuge by the Mexican Federal forces in El Paso from Ciudad Juarez. [End paraphrase.]

"General Moseley's report herewith 'In order that War Department may have a complete understanding of present status of Federal forces now temporarily detained at Fort Bliss it is necessary to give a record of events leading up to the withdrawal of said Federal forces into United States territory. Before fight began Federal and rebel commanders had been cautioned to so conduct their activities as to properly safeguard American lives and property. Thorough warnings were given by me direct to Federal Commander and by messages telephoned to General Caraveo who communicated them to officers commanding rebel columns. General Ramos did not attempt to defend Juarez from its southern edge but occupied positions in the center of the city. He was driven from those positions and finally occupied the river bank opposite the city of El Paso where the two cities practically join. When shots began to fall in El Paso I joined General Ramos in this position. A frontal attack against this position would have meant serious loss of life in El Paso. Just as soon as I was reliably informed that human beings in El Paso had been wounded and after having heard shots going into El Paso over our head I asked for General Ramos for permission to pass his lines for the purpose of conferring with the Rebel Commander. This he refused at first but later granted. About this time Robert O. V. Pesqueira appeared on the scene having flown from Mexico City and claiming to be the personal representative of President Gil. He exhibited to General Ramos a letter which I understand confirmed his status and his authority. Pesqueira urged General Ramos to stop fighting pointing out to him that his position was hopeless and that the Federal authorities of Mexico City would not want the fight to continue knowing that El Paso would be seriously involved. I then left to confer with General Valle, informing him of the damage already done in El Paso and that I would not allow him to make a frontal attack on the Federal position. At this time General Valle had captured the entire city except the levee along the river bank at the very north edge of Mexican territory. General Valle reported that he had endeavored in every way to prevent injury to American life and property and he deeply regretted damage already done. As firing had already ceased I persuaded General Valle to accompany me for conference with General Ramos. The two commanders met at the Mexican end of the Santa Fe Street International Bridge. Three propositions were open to General Ramos. First, To continue the fight. This I would not permit from the present positions of the two forces. As a matter of fact General Ramos had no real desire to continue the fight realizing the hopelessness of his position. Second, The rebel commander agreed to accept the surrender of the Federal forces guaranteeing the protection of their

lives in every way. These terms General Ramos did not desire to accept. Third, The rebel commanders would permit the passage of the Federal forces to Fort Bliss where I would detain them disarmed until instructions from Washington were received for their final disposition. At this point General Ramos asked permission to go to the Mexican consulate in El Paso and confer directly with General Calles by telephone. This was granted and he made the trip accompanied by the Mexican Consul General Enrique Liekens. Upon return after some delay General Ramos stated that they had conferred with General Calles. General Ramos then agreed to move his troops to Fort Bliss where they would be detained pending instructions from Washington. It was understood by both sides that the Federal forces would be disarmed and detained at Fort Bliss only until I had reported the matter to Washington and until order for their final disposition had been received. In disposing of this case I believe the rule of absolute fairness should govern and that if these troops are permitted to reenter Mexico at some point controlled by the Federal authorities they should not again be employed during the present emergency'. I recommend that the Mexican troops be sent under guard to Eagle Pass for entry into Mexican territory and that you determine the disposition to be made of their arms. No advance publicity should be given of the movement."

With reference to these Federal troops who took refuge in El Paso, and the request of the Mexican Government made through its Embassy here that they be returned to Mexico via Eagle Pass, the President feels that under all the circumstances attending the entry of those troops into the United States, we are under a moral obligation at least to see that they shall not be re-incorporated into the Federal military forces during the existence of this revolution. He therefore wishes you to ascertain:

- (1) Whether the Mexican Government is willing that the refugee troops and their families should remain at Fort Bliss at the expense of the Mexican Government which he would prefer, or
- (2) Whether, if the Mexican Government is not willing to agree to this, that they would have them reenter Mexico at Eagle Pass on parole not to engage in military service in the Federal army during the existing revolution.

[Paraphrase.] It is our understanding that according to the principles of international law the United States has no right to intern Mexican troops seeking refuge in this country unless these troops are engaged in international conflict or in a conflict between the forces of a recognized Mexican government and another recognized belligerent. We do not, of course, recognize the present rebels as belligerents, but from General Lassiter's report it seems that the Government of Mexico approved the arrangements made between the Federal and rebel commanders by which these troops were admitted. [End paraphrase.]

812.00Sonora/233 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, March 12, 1929—10 p. m.

[Received March 13—2:08 a. m.]

110. During the past two days we have had several conferences with the President, Estrada and Montes de Oca, about imports into Mexico such as coal and explosives needed for industrial life in Sonora and Chihuahua and the export of perishable crops such as early vegetables. The Government desires that, as the revolution may last only a short time, the civil population suffer as little as possible.

Minister Estrada today informed Morgan¹⁴ that authorization had been given the Mexican Consul at Naco to clear supplies and explosives needed for the Cananea mine. The Mexican Embassy at Washington will request export licenses for the explosives. The Government has also authorized Southern Pacific Railroad to move the early vegetable crop from Sonora provided purchase money remains in the United States.

It will be noted that this is a marked change from the Government's original suggestion of a complete embargo on ports occupied by rebels.

I personally see no objection to making these facts public although I have no authority from the Mexican Government in this respect.

MORROW

812.00Sonora/270 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., March 13, 1929.

[Received March 14—8:50 a. m.]

Following from Chihuahua:

"March 13, 5 p. m. In reply to Department's telegram March 11, 6 p. m. Local papers publish telegrams exchanged between General Moseley and Governor of Chihuahua in which Moseley in correct language served notice on Governor that latter would be held responsible for damages to life and property in the United States resulting from the expected attack of revolutionary forces on Ciudad Juarez. Many Americans and Mexicans openly expressed dissatisfaction with the warning in the manner in which made. I will forward by mail copies of the above-mentioned telegrams.

Extra edition newspaper this afternoon gives account of victory revolutionary forces first contact with Federal cavalry south of Torreon; military commander of San Luis Potosi was killed. See my despatch. Circular of March 8, 8 p. m.¹⁵ has not been received. Myers."

DYE

¹⁴ Stokeley W. Morgan, Counselor of Embassy.

¹⁵ See telegram No. 81, March 8, midnight, to the Ambassador in Mexico, p. 354.

812.00Sonora/303

Memorandum by the Chief of the Division of Mexican Affairs (Lane)

[WASHINGTON,] March 14, 1929.

Senor Campos Ortiz of the Mexican Embassy called on me today with reference to a report which the Embassy had received to the effect that Federal troops at Naco, Sonora, were unable to purchase and export from the United States food supplies and other equipment of a non-military character. He said that our Customs officials were prohibiting the exportation thereof.

I telephoned Mr. Frank Dow, Assistant Commissioner of Customs, and informed him of the above. He said that he would send a telegram immediately to the Deputy Collector of Customs at Naco, advising him that food supplies and other non-military material are not covered by the arms embargo and that therefore the exportation should be permitted.

A[RTHUR] B[LISS] L[ANE]

812.113/10465 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., March 14, 1929—noon.

[Received 4:20 p. m.]

From Bursley, Guaymas. March 13, 5 p. m. For the Department.

Would the Department object to the exportation of fuel oil for an American-owned Mexican company operating light and water works Sonora, Sinaloa, provided that company makes suitable arrangements with the Mexican Government and revolutionists and with transportation companies? Please answer by telegraph via American Consulate at Nogales. Well authenticated reports indicate fighting at Mazatlan.

DAMM

812.00Sonora/296 : Telegram

The Secretary of State to the Consul at Nogales (Damm)

WASHINGTON, March 14, 1929—5 p. m.

Your March 12, 10 p. m. and March 13, 3 p. m.¹⁶ regarding revolutionary leaders and members of their families applying for immigration visas in order to escape from Mexico.

It is not desired that the territory of the United States should be used by persons fomenting revolution and uprisings against the lawfully constituted authorities of their government as a place of

¹⁶ Neither printed.

convenient refuge from which their activities may be conducted. It is therefore desired that special precaution should be taken by Consuls before issuing visas to persons promoting or assisting in the promotion of the uprising in Mexico with a view to determining whether such persons are coming to the United States for bona fide purposes, or primarily for the purpose of fomenting or assisting in fomenting from a place of security revolution in Mexico. In each case before granting immigration visas Consul must consider facts and circumstances, particularly whether applicant intends to settle permanently in the United States or is coming for a temporary stay therein, and determine whether applicant is entitled to be classified as an immigrant according to the provisions of Section III of the Act of 1924.¹⁸ Consul must also determine whether applicant is subject to exclusion upon the ground that he or she is likely to become a public charge or is subject to exclusion under some other provision of the immigration laws.

KELLOGG

812.00Detention/7: Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, March 14, 1929—10 p. m.
[Received March 15—1:30 a. m.]

117. Department's 124, March 12. This morning I saw the Acting Foreign Minister, Estrada, and requested him to advise me which of the two alternatives, set forth in the Department's instruction of March 12 with regard to the disposition of refugee troops, the Government of Mexico would prefer. He replied that he had been in communication with the Mexican Ambassador at Washington regarding this matter and before definitely replying desired to further advise himself respecting the facts under which the entry of the Federal Mexican troops in question into American territory took place. He will probably communicate further with the Mexican Ambassador in this connection.

MORROW

812.00Sonora/306: Circular telegram

The Secretary of State to the Consuls at Agua Prieta, Ciudad Juarez, Matamoros, Mexicali, Piedras Negras, and Nuevo Laredo

WASHINGTON, March 15, 1929—6 p. m.

March 14th Department sent following telegraphic instruction to consul at Nogales in response to reports from him that revolutionary

¹⁸ 43 Stat. 153.

leaders and members of their families were applying for immigration visas in order to escape from Mexico.

[Here follows text of the telegram of March 14, 5 p. m., to the Consul at Nogales, printed on page 363.]

Consider foregoing as applying to your Consulate.

KELLOGG

812.008Sonora/313 : Telegram

The Acting Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 16, 1929—11 a. m.

159. According to your 110, March 12, 10 p. m. it would appear that Mexican Government had authorized Southern Pacific Railroad of Mexico to move early vegetable crop from Sonora provided purchase money remains in the United States. Telegram received by Southern Pacific Company in the United States from Sloan, their representative in Mexico City, indicates that authorization is to be given only on compliance with following conditions.

1. All taxes to be deposited with Mexican Consul, Nogales, Arizona.
2. Money received from sale of products to be deposited in American banks care of Southern Pacific Company and Mexican Consul Nogales and *not to be withdrawn until legal Government entirely in control of rebellious states of Sonora and Sinaloa.*
3. Cars returned to Mexico for loading to be subject to inspection Mexican Consul Nogales and in equal number to those exported from Mexico.

Attorneys for American vegetable shippers inform Department that their clients are entirely willing to comply with above conditions except underlined portion¹⁹ of second condition which they claim would prevent them from paying cost cultivation, picking, packing, railroad charges, United States duties and crossing charges and expense of operation. They point out that thousands of Mexicans are engaged in the vegetable growing and shipping industry who receive small compensation per diem mostly consumed in living expenses and that if thrown out of work would probably join rebellion for food or turn bandits.

Department is transmitting the foregoing for your information and for such action if any as you deem advisable.

CLARK

¹⁹ Italicized portion.

812.00Sonora/309 : Telegram

The Acting Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 16, 1929—noon.

160. Following from Chihuahua:

"March 14, 5 p. m. Many Mexicans anxious avoid further bloodshed and suggest that Ambassador Morrow offer his good offices to mediate differences between Mexico and revolutionists. I have asked the opinion of the leaders in Chihuahua and they would consider any decorous propositions which the government of Mexico cares to offer to be submitted to the supreme commander. Leaders would expect removal of principal cause of the revolt."

Department has replied as follows through Ciudad Juarez:

"Your March 14, 5 p. m. Unless directly instructed by the Department or the Ambassador you will refrain from discussing with anybody the question of mediation between the Federal Government and the rebels."

CLARK

812.113/10465 : Telegram

The Acting Secretary of State to the Consul at Nogales (Damm)

WASHINGTON, March 16, 1929—1 p. m.

For American Consul at Guaymas.

Your March 13, 5 p. m.²⁰ Department has no objection to exportation of fuel oil to Mexico in accordance with plan outlined by you.

CLARK

812.00Detention/11

Memorandum by the Under Secretary of State (Clark) of a Conversation With the Mexican Ambassador, March 16, 1929

The Mexican Ambassador came by appointment and took up the matter of the detained troops in El Paso, stating that he had been instructed so to do by his Foreign Office. (This confirmed the statement Mr. Morrow had made to me by telephone that Estrada had said he would instruct the Ambassador to take up the matter.)

I explained to the Ambassador that the question of the disposition of troops who sought refuge in the United States had been taken up with the President, who had thereupon directed that we present the Mexican Government with an alternative proposal. I read to the Ambassador a part of the instructions which we had

²⁰ See telegram of March 14, noon, from the Consul at Nogales, p. 363.

sent to our Embassy in Mexico City regarding the matter. I assured him that we had no disposition to do anything that would recognize the belligerency of the rebels.

After some discussion the Ambassador adverted to the fact that a part of the troops who took refuge were regular troops (he thought 180), and the remainder were volunteer troops, men who, in order to defend the town from seizure by forces in rebellion against the regular government, had volunteered to assist. These were men who lived at Ciudad Juarez, certain of them at least being men with families. He asked that we release these men to the Mexican Consul, with or without parole not to engage in hostilities, in order that they might return to their homes and families. He further suggested that the discussion of the disposition of the other troops might be postponed for a few days with the thought that the situation in Mexico might in the meanwhile clear up. The Ambassador stated that if it did not clear up, he then would propose that we release the regulars to the Mexican Consul with the understanding that they be returned to Mexico at some point such as Laredo or Matamoros, where there are no military operations in progress.

I told the Ambassador that I would recommend to the Secretary that he take up with the President the Ambassador's suggestion of releasing the volunteer troops in order that they might return to their homes, and as they were volunteers and not regulars, I would recommend that they be released without parole.

J. R[EUBEN] [CLARK]

812.00Sonora/339 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, March 18, 1929—4 p. m.

[Received 7:44 p. m.]

129. Department's 159, March 16, 11 a. m. The Embassy's telegram number 110, March 12, 10 a. m. [*p. m.*], sets forth the first informal authorization as given by the Government to the Southern Pacific Railroad. Later a meeting was held between the Southern Pacific representative here and Government agents and the three conditions set out in your 159, March 16, 11 a. m., were formulated and agreed to. Still later another meeting was held at which the Southern Pacific representative explained to the Government official the difficulty in practice of complying with these conditions. All of what you recite as condition 2 was then modified by the Government so as to permit funds to be withdrawn with the approval

of the Mexican Consul at Nogales for payment of labor in Mexico and obligations in the United States. Sloan says that the arrangement as it now stands is perfectly satisfactory to the railroad and he feels it should satisfy the shippers. We think you can therefore assure representatives of the shippers who have been conferring with you that there is every desire on the part of the Government officials here to cooperate with the railroad and shippers in avoiding loss to vegetable growers.

MORROW

812.00Sonora/374 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 21, 1929—2 p. m.

185. Department has been approached by National City Bank and Equitable Trust Company, both of New York, on behalf of Banco de Mexico, some of the branches of which appear to have been ransacked by rebel forces to extent of about two and one-half million pesos in gold and silver currency.

As a result of oral request made yesterday Treasury Department has issued instructions to Collectors of Customs along border to detain temporarily pending possible institution of attachment proceedings all gold and silver specie exported from Mexico into the United States by rebel element. Collectors have been instructed to notify Mexican Consuls along border of any cases attempted importation into the United States of gold and silver by rebels.²¹

Mexican Embassy here has been informally advised foregoing. It is suggested that you may wish to bring it also to the attention of the Foreign Office.

KELLOGG

812.00Sonora/381 : Circular telegram

The Secretary of State to Consular Officers in Mexico

WASHINGTON, March 21, 1929—7 p. m.

March 19th Department gave following statement to Press.

"The Department has no information from American consular officers in Mexico that would indicate they have attempted to carry on mediatory negotiations between representatives of the Mexican Federal Government and the Mexican rebels. The Department of

²¹ In telegram of April 1, 1 p. m. (not printed), the Department instructed the consular officers at Nogales, Ciudad Juarez, and Agua Prieta to notify the Department, United States Customs officials, and duly accredited consular representatives of the Mexican Federal Government on border of any proposed shipments to the United States of gold or silver specie by persons not authorized by the Mexican Federal Government (812.515/339a).

State has of course not undertaken any such mediation nor has it authorized any of its representatives so to do."

Foregoing for your information.

KELLOGG

812.00Detention/13 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 22, 1929—1 p. m.

188. Our 124, March 12, 6 p. m. Mexican Ambassador has taken up with Undersecretary question of disposition of Mexican refugee troops detained at Fort Bliss. Ambassador states such troops are of two classes, regulars and volunteers. Our War Department reports in response to an inquiry from us that there are, among those refugee troops, 61 civilian volunteers and in addition 62 volunteers from Mexican civil service. Mexican Ambassador has requested that these volunteers be released with or without parole in order that they may return to their families and work in Ciudad Juarez. The Ambassador intimates that he will later ask that the regular troops be returned to some area not within the field of military operations, for example, Matamoros.

Before I make any recommendation to the President I must know what the Mexican Government desires to do with reference to the alternative propositions set out in my 124. So soon as the Mexican Government advises us of their wishes, I will at once take the matter up with the President.

KELLOGG

812.00Sonora/397 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Extract]

MEXICO, March 23, 1929—8 p. m.
[Received March 24—2:44 a. m.]

153. . . .

In view of conflicting reports from Mazatlan as indicated in the foregoing messages from Consul Blocker and the information received from the Government, and in view of Consul Blocker's recommendation, I recommend that destroyer now understood to be en route to Manzanillo be ordered to proceed direct to Mazatlan.

This repeats my recommendation to Under Secretary on the telephone at 6 p. m.

MORROW

812.00Sonora/405 : Telegram

The Consul at Nogales (Altaffer) to the Secretary of State

NOGALES, ARIZ., March 24, 1929—noon.

[Received 4:59 p. m.]

This Consulate is receiving an increasing number of requests for intervention with rebel army leaders on the part of American shareholders in Mexican companies because of forced loans and requisition of properties. The rebels can point to the fact that in incorporating, these Americans in most cases agreed to consider themselves Mexicans insofar as their interest[s] in the companies were concerned. Assuming intervention to be admissible and proper in such cases the Consulate requests instruction as to the basis its representations should take.

ALTAFFER

812.00Sonora/428 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 25, 1929—7 p. m.

201. Substance of your 153²² communicated to Navy Department night of March 23. Instructions have been issued to Destroyer *Robert Smith* under Commander Comerford to proceed to Mazatlán instead of to Manzanillo "to furnish as far as practicable refuge for American citizens and foreigners." This Department has suggested to Navy Department that, while it will defer to the judgment of the Commander of the *Robert Smith*, subject to such instructions as Navy Department may issue to him, with regard to action he may consider to be most effective in furnishing refuge for American citizens and foreigners, Commander should consult with Blocker and also confer by radio with you as to most advisable course to be taken. Please advise Mazatlán of foregoing.

KELLOGG

812.00Sonora/432 : Telegram

The Consul at Nogales (Altaffer) to the Secretary of State

NOGALES, ARIZ., March 26, 1929—4 p. m.

[Received 8:44 p. m.]

Referring to Department's telegram March 23 [25], 5 [3] p. m.²³ requesting specific cases of forced loans and requisitions on the part of rebel leaders to which American citizens object, the following are cited: Pacific Brokerage Company, Nogales, Sonora, Jess Manson,

²² *Ante*, p. 369.²³ Not printed.

President, contribution demanded 300 pesos; Nogales Brewery, Joseph Wise, majority stockholder, contribution demanding one thousand dollars; Compania Agricola Prima Vera, Ciudad Obregon, in which Americans are stockholders, tractor requisitioned. The latter appealed to this office because the tractor has been taken to Cananea. Many other similar cases exist which are not officially brought to the attention of the Consulate, among them the forced loan of 100,000 pesos just levied on 50 carloads of sugar belonging to the United Sugar Companies at Los Mochis, 70 percent of which is of American ownership. The rebels refused to permit this sugar to be moved from Nogales into the United States until this amount had been paid. Levies are made under the guise of one or another kind of tax.

ALTAFFER

812.113/10484

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, March 27, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note No. 1756 dated March 26, 1929,²⁴ advising that you have been informed by the Mexican Consul General at El Paso to the effect that a man named . . . , owner of a ranch at . . . , Texas, recently sold one hundred eight horses to the rebels and that the said horses were to be taken directly from . . . , Texas, to the international boundary line for the purpose of crossing to a place called Paso del Pulpito, Sonora. Your Excellency requested, in this connection, that necessary steps be taken to prevent the exportation of these horses to Mexico.

In reply I have the honor to advise Your Excellency that this matter has been brought to the attention of the appropriate Departments of this Government with the request that the necessary steps be taken to prevent the unauthorized exportation of the said horses.

Accept [etc.]

For the Secretary of State:

J. REUBEN CLARK, JR.

812.00Sonora/440 : Telegram

The Consul at Mazatlan (Blocker) to the Secretary of State

MAZATLAN, March 27, 1929—6 p. m.

[Received March 28—9:40 a. m.]

Telegraphic communications reopened today to south. General Cardenas now at river, here tomorrow as soon as several bridges re-

²⁴ Not printed.

paired. Rebels in full retreat north. Federals start pursuit today repairing track. All quiet Mazatlan. No more need present destroyers since Federals now in full control. Rail communication to south Saturday.

Embassy informed.

BLOCKER

812.00Detention/20 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, March 27, 1929—8 p. m.
[Received March 28—3:52 a. m.]

165. Department's 124, March 12, 6 p. m., and 188, March 22, 1 p. m. I took up personally with Minister Estrada again this morning the question of the disposition of the troops at Fort Bliss. He told me that Ambassador Téllez and the Department seemed to be in accord but nevertheless no action had been taken by our Government. I told him that I hoped he could see his way to instruct Ambassador Téllez to acquiesce in having the matter disposed of in whichever way the Department thought best. He agreed that the matter was of no real importance except perhaps as a precedent. I suggested to him that he could avoid making it a precedent by letting it be disposed of as the Department should prefer, basing his assent upon an agreement expressed or implied that either was made or was believed by General Moseley to have been made at the time the troops were admitted into the United States.

While I did not promise to do this, he did not dissent from it and asserted again that he did not consider the question of any real importance.

MORROW

811.3312/139 : Telegram

The Consul at Mazatlan (Blocker) to the Secretary of State

MAZATLAN, March 28, 1929—5 p. m.
[Received March 29—10:35 a. m.]

U. S. S. *Robert Smith* left on account of instructions Navy Department last night, 11 p. m., for Tobari Bay fifty miles south Guaymas. All quiet Mazatlan, condition becoming normal. General Cardenas troops consist of twenty-three trains arriving to-night for advance north. Rebels at La Cruz. Reports indicate many desertions in their ranks. Embassy informed.

BLOCKER

812.00Sonora/465 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, March 29, 1929—6 p. m.

217. The Department is today instructing American Consul at Guaymas via Nogales as follows:

"In further reply to your telegram received night of March 25 via Nogales²⁵ regarding probable unfavorable if not dangerous developments at Guaymas and vicinity, which suggested the need for the presence of an American vessel, which has now been arranged for, to take off refugees in case of necessity, and in view of the fact that apparently rebel forces are now retreating northward from Mazatlan with the possible result that the conditions you apprehend may shortly arise, you will informally and unofficially make representations orally to the appropriate persons now exercising *de facto* authority in your district in connection with the present insurrectionary movement, saying that the Government of the United States expects and demands that American life, property and interests shall receive due and proper protection from all wanton or illegal acts sacrificing or endangering them. You will point out that the rules and principles of international law which are applicable to situations such as now exist in your district require that aliens resident in areas so disturbed shall not be made participants in such disturbance; that it is the duty of such aliens to perform no act contrary to the regular laws and constitution of the country; that in any domestic conflict they must be no more than impartial observers; and that it is the corresponding duty of the *de facto* authority to leave them free from molestation in following this course. The Government of the United States must insist upon the observance of these principles in so far as the lives, property, and interests of American citizens are concerned, and it will seek infliction of due and proper punishment upon all persons responsible for the violation of those principles.

In case any *de facto* authority in your district violates any of the foregoing principles, you will immediately report the facts thereof and the names of the persons involved to the nearest American consular officer on the border with the request that he immediately notify the nearest immigration officer to the end that such *de facto* authorities may not, after maltreating American citizens or their property or interests in Mexico, find immunity for their acts in a safe refuge in the United States. You will notify the Department of all such action taken."

The Department is instructing the American Consul at Nogales²⁶ to be repeated Guaymas as follows:

"International law recognizes that since *de facto* authorities actually in control of areas either by revolt or by occupation can compel obedience to their demands, aliens within the control of such authorities are protected in paying taxes to them upon demand even though such payment may not meet the provisions of the local law, indeed

²⁵ Not printed.

²⁶ In reply to his telegram of March 26, 4 p. m., p. 370.

may be contrary to such law which will probably require payment to those local authorities only who are regularly constituted according to the laws and constitution of country. You will advise Americans making payments of taxes under such compulsion that in order properly to protect themselves they should pay such taxes under protest, which should be made a matter of record in each case as far as possible. Properly authenticated receipts should if possible be secured for all taxes paid.

Furthermore, you will informally and unofficially protest orally to the appropriate persons now exercising *de facto* authority in your district, first, against the payment of all taxes to insurrectionary authorities by American citizens on the ground that such payment is not in accordance with local law, thus giving basis for the protest of the taxpayers themselves; second, and particularly, and on the additional ground of unfair discrimination, you will orally protest against all arbitrary or confiscatory exactions levied against American property or upon American citizens, when the levy in whatever form, whether as war or other taxes, or as 'forced loans' or other similar measures or contributions, is not equally applied according to a fixed percentage amongst all the inhabitants, whether natives or foreigners, but is applied arbitrarily upon that part only of the community which includes Americans."

These instructions are being repeated to all American Consuls in disturbed areas (Chihuahua, Agua Prieta, Cananea, Ciudad Juarez and Ciudad Obregon).

At an early convenient opportunity to be determined in your discretion, you will bring the foregoing regarding protection and taxes to the attention of the Mexican Government²⁷ and will state that the Government of the United States will regard payments of taxes of all kinds made to *de facto* authorities in control of certain disturbed areas in Mexico under the circumstances set out in the telegrams as constituting a due and proper payment of such taxes in the amounts paid and as completely relieving American citizens so paying such taxes from any and all further obligation in regard to such payment.

STIMSON

812.515/335

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, March 29, 1929.

EXCELLENCY: In further reply to Your Excellency's note of March 13, 1929,²⁸ stating that rebel authorities had deposited certain funds and stamps in the . . . Bank at . . . , Arizona, I have the honor to inform Your Excellency that the Department has received a communication dated March 18, 1929, from the Governor of Arizona,²⁸

²⁷ Communicated to the Mexican Foreign Office by note, April 1, 1929 (812.000/Sonora/477).

²⁸ Not printed.

in which he states that he has been advised by the Attorney General of the State of Arizona that he has no authority to ask the Bank to deliver this property to the Mexican Consul or to attach the coin referred to in your note. The Governor adds, however, that if there is anything he can do to assist in this matter he will be glad to do so.

Accept [etc.]

For the Secretary of State:

J. R[EUBEN] C[LARK] JR.

812.008Sonora/478

Señor Gerzayn Ugarte to the Secretary of State

[Translation]

WASHINGTON, March 30, 1929.

EXCELLENCY: I have the honour to acquaint your Excellency that General José Gonzalo Escobar, Supreme Chief of the Renovador forces encharged with the Executive Power of the Mexican Nation, has deemed it proper to confer upon me the appointment of High Commissioner in order to represent the interests of the Revolution near the Government of this country, such appointment having been made in accordance with the powers conferred upon him by the Plan of Hermosillo, dated the 3rd day of March, 1929.

The Mexican people have been obliged by various reasons, in order to defend their rights, to resort to arms. The Plan of Hermosillo shows by its terms that no other recourse was left but the employment of force to oppose the despotic regime which had imposed itself against the liberty of the people and which ruled my country. The man responsible for this situation is General Plutarco Elías Calles who promised faithfully to withdraw from public affairs at the expiration of his term, but who continued to influence the Governmental policies thru the Provisional President, Emilio Portes Gil.

The legality of the revolutionary movement, which is not a military mutiny, as unfortunately there has been an attempt to make it appear, constitutes a genuine protest of the Mexican people against the tyranny of General Calles, and is based upon the fact that the Constitutional State Governments of Sonora, Chihuahua, Durango and Sinaloa seceded from the Federal Pact, and broke their alliance with the Central Government, delegating their powers and their representation to General Escobar. In which concept it should also be borne in mind that a great number of members of the Federal Legislative Body adhered to the movement by signing the Plan of Hermosillo.

The revolution was initiated on the third day of the present month and already has had various military successes against the federal

army, such as the capture of Monterrey, capital of the State of Nuevo Leon, Saltillo, the capital of the State of Coahuila, Ciudad Juárez, a border port important to United States, and many battles of significance in states controlled by the revolutionary party. The revolution has extended to the south into the States of Tepic, Jalisco, Guanajuato, Zacatecas, Aguascalientes, Michoacán, San Luis Potosí, Mexico and Guerrero not to mention several other evidences of rebellion which have manifested themselves in the remaining States of the Mexican Republic.

The Supreme Chief of the Renovador forces felt it his duty to accept the mandate of the constitutional Governments above referred to, and has especially instructed me to extend assurances express and emphatic to the Government of the United States, that the revolutionary Government is inspired with high ideals of justice and will employ in its warfare the best principles compatible with humanity, as it has already done by abolishing the death penalty. The Revolutionary Party is also eager to fulfill its international obligations, and will strictly uphold the granting of full guarantees and protection to foreign lives and property, and will give due consideration to all just demands presented.

In having the honour to lay before your Excellency the purposes which animate the present revolution in Mexico, it is a pleasure to assure you that the lives and interests of American citizens will enjoy, as they have enjoyed to date, the most ample protection, in all places where the Provisional Government of Mexico shall be organized by the revolutionary forces, under the dictates of the Plan of Hermosillo.

I have further, the honour to enclose a copy of the appointment made in my favour by the Supreme Chief, General José Gonzalo Escobar,²⁹ a copy of the declarations made by Dr. Gilberto Valenzuela, which set forth the general causes of the present revolutionary movement,²⁹ and a printed copy of the Plan of Hermosillo³⁰ together with the adhesion of the constitutional Governor of Chihuahua, General Marcelo Caraveo.²⁹

I beg [etc.]

GERZAYN UGARTE

812.113/10500: Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., April 1, 1929.

[Received 7:23 p. m.]

Rebels in Juarez claim to have there nine airplanes. Believe this is exaggerated. Am reliably informed they bought three planes in

²⁹ Not printed.

³⁰ For text of the plan, see p. 339.

Phoenix, paying \$7,000 apiece, and one trimotor in Los Angeles. These planes crossed to Mexico from El Paso Friday and Saturday nights with American pilots. Rebels seem to have plenty of money and it is open secret that much ammunition and materials crossing to Mexico.

DYE

611.125/120

The Secretary of State to the Mexican Ambassador (Télez)

WASHINGTON, April 1, 1929.

EXCELLENCY: In further reference to Your Excellency's note No. 1556 dated March 18, 1929,³¹ requesting that special authority be granted whereby residents of Naco, Sonora, may be permitted to import five hundred head of cattle, which they desire to maintain at some place in the vicinity of Naco, Arizona, during a period of sixty days, with the understanding that the said cattle are to be returned to Mexico at the expiration of that period or, in the event that the cattle are not so returned, that the corresponding United States import duties shall be duly paid by the interested persons, I have the honor to inform Your Excellency that the Department of Agriculture and the Treasury Department of this Government informed this Department under date of March 26 and 30 [28?], 1929,³¹ respectively, that instructions had been issued to Dr. Thomas A. Bray, Inspector of the Bureau of Animal Industry, 13 Livestock Exchange Building, El Paso, Texas, and to the Collector of Customs at El Paso, Texas, in whose district Naco is situated, whereby interested residents of Naco, Sonora, may make the desired arrangements for the importation of cattle in the circumstances set forth in Your Excellency's note under reference.

Accept [etc.]

For the Secretary of State:

J. REUBEN CLARK, JR.

812.113Exportation/2

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

No. 1868

WASHINGTON, April 1, 1929.

MR. SECRETARY: I have the honor to inform Your Excellency that agents of the rebels now at Ciudad Juarez, taking advantage of the fact that coal, gasoline, and petroleum, are not considered contraband of war, have been importing, through El Paso, Texas, large quantities of such fuels which are being used to supply locomotives and other vehicles used in moving troops.

³¹ Not printed.

Furthermore, I have been informed to the effect that the trucks which transport the said fuels also carry contraband ammunition.

In view of the foregoing permit me to request Your Excellency's assistance in approaching the appropriate authority in order that, if there be no objection, coal, gasoline, petroleum, and other fuels be considered contraband of war, and that the free exportation thereof be prevented.

Anticipating [etc.]

MANUEL C. TÉLLEZ

812.512/3472 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, April 1, 1929—9 p. m.

225. Department has today sent following telegram to American Vice Consul at Agua Prieta:

"Department has received letter dated March 23 from Messrs. Knapp, Boyle and Pickett of Douglas,³² attorneys for Cananea Consolidated Copper Company, the Moctezuma Copper Company, the El Tigre Mining Company and the Nacozari Railroad Company regarding reported action of *de facto* authorities compelling their clients to pay taxes to such *de facto* authorities. Attorneys express hope that Mexican Federal Government will not subsequently demand repayment of such taxes and they request that matter be taken up with Mexican Government.

In this connection you will be guided by instructions contained in Department's telegram March 29, 4 [6] p. m.³³ You will orally inform attorney[s] of substance of these instructions and inform them that Ambassador at Mexico City has been authorized to make appropriate representations to Mexican Government."

Copy of attorneys' letter being forwarded by pouch.

STIMSON

812.008Sonora/526

Memorandum by the Under Secretary of State (Clark) of a Conversation With the Mexican Ambassador, April 2, 1929

The Mexican Ambassador called me on the telephone and stated that he had just heard from the Mexican Consul at Naco of the bombing of the American town of Naco by a rebel airplane with a resulting injury to American citizens. The Ambassador expressed his regret, and stated that the Mexican Government would do all it possibly could to avoid a recurrence of the incident.

³² Not printed.

³³ See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373.

I told the Ambassador I appreciated his expression of regret, and was sure the Mexican Government would do all it could do to prevent such happenings.

J. R[EUBEN] C[LARK]

812.00Detention/23

The Secretary of State to the Secretary of War (Good)

WASHINGTON, April 2, 1929.

MY DEAR MR. SECRETARY: In reply to your letter of March 28, 1929,³⁴ inquiring with respect to the disposition of Mexican Federal troops now detained at Fort Bliss, Texas, it is my understanding that the President's directions as conveyed at the Cabinet meeting held on April 2 are as follows:

(1) All Mexican troops now detained at Fort Bliss whether components of Mexican Federal forces or "volunteers" or civilians associated with such forces, are to be released at once and handed over to the custody of the Mexican Consul General at El Paso, Texas for such disposition as he may desire to make.

(2) All arms and ammunition which were in the possession of those Mexicans detained at Fort Bliss at the time they entered the United States are to be held for the time being at Fort Bliss.

In view of the foregoing, I should appreciate it if you would be good enough to issue telegraphic instructions to the appropriate United States Army authorities in order that the President's directions may be complied with as soon as possible.

I should also be grateful if you would request the Commanding General at Fort Bliss, Texas to communicate with the Mexican Consul General at El Paso, in order that the details of the foregoing arrangement may be perfected.

I am [etc.]

HENRY L. STIMSON

812.00Sonora/489: Telegram

The Secretary of State to the Consul at Nogales (Damm)

WASHINGTON, April 2, 1929—6 p. m.

Press despatches of today from Naco report that Mexican rebel airplane this morning bombed Naco, Arizona causing injury to American citizen. Telegraph facts immediately to reach Department not later than nine o'clock Wednesday morning. Similar telegram sent to Agua Prieta.

STIMSON

³⁴ Not printed.

812.00Sonora/490 : Telegram

The Vice Consul at Agua Prieta (Jones) to the Secretary of State

DOUGLAS, ARIZ., April 2, 1929—9 p. m.

[Received April 3—4: 18 a. m.]

Your urgent April 2, 6 p. m.³⁵ Two bombs dropped in Naco, Arizona, this morning at seven thirty. Both approximately one hundred sixty feet American territory and doing several hundred dollars damage by breaking windows in American business houses. Harry Baker of Alliance, Ohio, and presumably an American citizen, sustained a slight scalp wound, not serious.

General Frank Cocheu commanding American troops in Arizona, New Mexico, district was accompanied by me in a visit to General Fausto Topete today at which time General Cocheu warned General Topete that the United States Government would not countenance the injury of American citizens and damaging of American property by either rebel or Federal forces. General Topete expressed deep regret that bombs had fallen on American soil, stating that it had been entirely accidental and promised that it would not occur again. He instructed his commercial agent here who was our guide to settle all damages at once. Further developments will be reported to the Department promptly.

JONES

812.00Sonora/491 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 2, 1929—11 p. m.

[Received April 3—1: 41 a. m.]

Department's April 2, 6 p. m. This Consulate has no information at present time regarding wounding of Terry [Harry] Baker at Naco, Arizona, further than that contained in press dispatch which probably gave accurate account.

DAMM

812.00Sonora/502 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 3, 1929—11 p. m.

[Received April 4—8: 20 a. m.]

From Bursley:

April 2, 4 p. m. Despite promises Guaymas custom house to respect American exporters ex-Mexican vessel *Washington* revolu-

³⁵ See telegram of the same date to the Consul at Nogales, *supra*.

tionary forces have taken possession 1,000 cases of gasoline, 50 cases of lubricants here destined Topolobampo belonging to California Standard Oil Company and expect to ship by rail to Santa Ana early tomorrow morning.

. . . I protested to the collector of customs who states that he is unable to delay shipment and that only Bernardo Salazar Araiza, Departamento Gonaive, Nogales, can delay orders.

DAMM

812.00Sonora/498 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., April 3, 1929.

[Received 6:45 p. m.]

Referring Department's March 29, 6 p. m.³⁶ This Consulate took matter up orally with General Murietta in charge civil affairs here. He stated:

First. That American lives and property would be protected.

Second. That Americans would be allowed to continue residence free from molestation as far as possible.

Third. That only American aviators were being accepted for military service.

Fourth. Taxes were being and would continue to be collected from all residents including Americans.

Fifth. That no requisitions or forced loans had been imposed on Americans and none at present contemplated.

Authorities have requisitioned two thousand dollars worth whiskey from D. W. Distillery in which Americans claim actual ownership majority of stock but registered as Mexican corporation, also have taken over famous Cordova Island saloon whose former proprietor always supposed to be Mexican citizen now claims American citizenship but has not proved it to satisfaction of Consulate. Authorities have taken over Juarez telephone service owned by Mexican corporation and are running public gambling hall.

DYE

812.00Detention/25

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, April 3, 1929.

EXCELLENCY: Referring to Your Excellency's notes No. 1343 and No. 1430, of March 8th and 12th, respectively, regarding the deten-

³⁶ See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373.

tion at Fort Bliss of Mexican Federal troops and "volunteers" or civilians associated with such troops, I have the honor to inform you that pursuant to directions of the President, orders are being issued to effect the immediate release of those Mexicans now detained at Fort Bliss and to hand them over into the custody of the Mexican Consul General at El Paso, Texas, for such action as he may desire to take. Instructions are also being issued that the arms and ammunition which were in the possession of those now detained, at the time they entered the United States, be held at Fort Bliss for the time being.

I have the honor to suggest that the Mexican Consul General at El Paso, Texas, be instructed to communicate with the Commanding General at Fort Bliss, Texas, in order that the details of the foregoing arrangement may be perfected.

Accept [etc.]

HENRY L. STIMSON

812.00Sonora/521 : Telegram

The Secretary of State to the Vice Consul at Agua Prieta (Jones)

WASHINGTON, April 3, 1929—7 p. m.

Department has received your report on political situation in your district dated March 14, mailed March 21.³⁷

While Department desires that you report facts regarding conditions in your district regardless whether such facts redound to credit of Federals or rebels, your attention is invited to the fact that this Government maintains diplomatic relations with the present constituted Government of Mexico, that it has authorized the sale of arms and munitions to that Government, that it is permitting the exportation of arms and munitions to Mexico in favor of that Government but does not permit rebel forces to acquire arms and munitions in the United States and that it has not recognized belligerency of the insurrectionists. Your attitude will be guided accordingly and you will exercise caution so that no action on your part may be construed as recognizing the belligerency of rebel forces. Refer to last paragraph Department's telegram to Guaymas repeated to you in Department's telegram of March 29, 4 [6] p. m.³⁸

STIMSON

³⁷ Not printed.

³⁸ See telegram No. 217, March 29, 6 p. m., to the Ambassador in Mexico, p. 373, which was repeated to the Vice Consul at Agua Prieta, the last paragraph reading: "You will be guided by the same instructions should occasion for representations arise." (813.00 Sonora/464)

812.00Sonora/513 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, April 4, 1929—5 p. m.

233. I made the following statement yesterday at the press conference:

“At the press conference this afternoon Secretary Stimson said he had seen some statements in the press indicating danger of American citizens enlisting on one side or the other in the Mexican trouble since they did not appreciate the danger they were incurring by so doing. He said that in 1912 when there was a similar situation in Mexico the President issued a proclamation warning Americans of the danger and while no formal proclamation is being made now it does seem necessary that attention be called to the danger and to the fact that the danger is so significant that during the previous trouble in Mexico warning was given by proclamation. Secretary Stimson read the pertinent portions of the proclamation issued in 1912,³⁹

‘and finally I do hereby give notice that all persons owing allegiance to the United States who may take part in the disturbances now existing in Mexico, unless in the necessary defense of their persons or property, or who shall otherwise engage in acts subversive of the tranquillity of that country, will do so at their peril and that they can in no wise obtain any protection from the Government of the United States against the appropriate legal consequences of their acts, in so far as such consequences are in accord with equitable justice and humanity and the enlightened principles of international law.’

Secretary Stimson interpreted the proclamation as meaning that in case an American citizen should enlist with the insurrectionary forces, he places himself in the category of people who are recognized by Mexico as traitors, and incurs the penalty of treason. This country can do nothing to protect him from the fate of a traitor, provided the penalty is meted out according to international law.

A correspondent asked if any official reports of the enlistments had been received. The Secretary said he had no official information. He had merely observed certain newspaper articles regarding such enlistments. However, he was of the opinion that ardent young Americans who might enlist without looking into the provisions of international law in such cases should be warned as he did not want to see them suffer.”

Yesterday AmConsul, Ciudad Juarez, advised that rebel authorities informed him that American aviators were being accepted for service in their ranks. You will at your early convenience and in your discretion bring my foregoing announcement to the attention of the Mexican Government, and will point out that while the announcement was, as to the punishment which might be suffered,

³⁹ Proclamation of March 2, 1912, *Foreign Relations*, 1912, p. 732.

couched in terms which, it was hoped, would deter American citizens from taking service in rebel ranks, nevertheless the Government of the United States will expect that the Government of Mexico will not regard such Americans when taken prisoners as guilty of treason but that on the contrary it will treat any American fighting in rebel ranks and taken prisoner by the regular government forces, in accordance with the laws of war as recognized between nations, and not in accordance with domestic law where the latter differs from such laws of war. You will state that this is not intended to involve, even by implication, a recognition of rebel belligerency, the sole purpose and desire of this Government being to avoid a distressing and unfortunate accident or incident which would prove most embarrassing to both Governments.

You will request the Mexican Government to advise you whether or not any Americans are in the Federal army and inform us of the reply in order that appropriate representations may be made to those in control of the rebel forces.

STIMSON

812.00Sonora/507 : Telegram

The Vice Consul at Agua Prieta (Jones) to the Secretary of State

DOUGLAS, ARIZ., April 4, 1929—9 p. m.

[Received April 5—5:02 a. m.]

Rebel aeroplanes continue to bomb Naco several times daily and are drawing lines closer to the town for battle which now seems imminent. Two more bombs have fallen just within American territory without damage, General Topete has again apologized to American authorities. One Federal aeroplane brought down by rebels south of Naco today and two aeroplanes from Mexicali reported to have deserted Federals and joined Topete forces south of Naco. Harry Baker the American injured by rebel bomb in Naco Tuesday is in hospital in Douglas, Arizona, receiving treatment for slight scalp wound and satisfactory settlement has been made with him by Topete's local representative. Situation otherwise unchanged.

JONES

812.00Detention/32

The Secretary of State to the Mexican Ambassador (Télléz)

WASHINGTON, April 5, 1929.

EXCELLENCY: I have the honor to inform Your Excellency that according to a report which has been received from the United States Military authorities at Naco, Arizona, one Mexican Federal officer and

ten Mexican Federal soldiers were arrested by the local authorities at Naco, Arizona on April 3, all the soldiers having arms and ammunition in their possession. The United States Army authorities to whom the officer and soldiers were turned over by the local authorities have until now been holding the men pending instructions from Washington.

I have the honor to inform Your Excellency that instructions are now being sent to the appropriate United States Army authorities to relieve the aforementioned Mexican officer and soldiers of their arms and ammunition and then to turn them back to Mexican territory. After the officer and soldiers have been returned to Mexican territory, the arms and ammunition which were formerly in their possession are to be handed over to the Mexican Federal commander at Naco, Sonora.

In informing Your Excellency of the foregoing, I have the honor to request that appropriate instructions be issued so that Federal soldiers on patrol duty will in the future remain on the Mexican side of the Border and that Mexican Federal soldiers entering the United States for legitimate purposes should come unarmed.

Accept [etc.]

HENRY L. STIMSON

812.00Sonora/514 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, April 5, 1929—3 p. m.

[Received 7:07 p. m.]

187. Reference your number 233, April 4, 5 p. m. Before this message arrived I had seen a report in the local morning paper that an American citizen supposedly an aviator had been captured by the Federals in the recent fighting around Jimenez and I directed Colonel MacNab to see, informally, the President and explain that although it had been announced by the State Department that American citizens voluntarily fighting in the ranks of the rebels would lose certain rights to protection from the American Government, it was most important that any American citizens so fighting and captured be treated with every consideration. It was explained to the President by Colonel MacNab that if they were harshly treated in any way that it would create a most unfavorable impression in the United States; that on the contrary if they were treated with consideration the opposite might be true.

The President told Colonel MacNab that they had no knowledge of any American citizens having been captured with the rebels but he asked Colonel MacNab to assure me that any prisoners so captured would be treated with all consideration and that he would communicate immediately with General Calles at the front upon this matter.

Your 233 has now been decoded and will be read by me to the President this afternoon and in addition thereto the subject matter will be communicated in the usual way to the Minister of Foreign Relations.

MORROW

812.00Sonora/518: Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 5, 1929—4 p. m.
[Received 11:06 p. m.]

The Consulate has just been shown in confidence an order by the inspector in charge of the immigration office at Nogales, Arizona, emanating from the district director's office at El Paso, in which he is ordered to hold a board of inquiry upon and exclude all civil and military officers of the revolution, whether past or present, as well as the members of their families. This would seem to require the Consulate to refuse visas to such persons. The effect will be to immeasurably increase the difficulty of the position of Americans in this territory, in fact certain individual officers of the *de facto* government who have received an intimation of this policy have let it be known that if it is applied Americans will feel the effect of it. The instruction contained in the penultimate paragraph of the Department's telegraphic instruction to this office dated March 29, 6 p. m.⁴⁰ whereby officials of the *de facto* government who had been friendly to American interests could be granted admission to the United States gave our consulates in rebel territory an effective weapon to use in the protection of American interests. Under the blanket exclusion ruling of the immigration service, however, Americans and their interests in the district will suffer severely.

DAMM

812.00Sonora/533: Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 6, 1929—noon.
[Received 4:43 p. m.]

From Vice Consul, Ciudad Obregon:

April 5, 9 p. m. The rebel army retreated from Culiacán to San Blas yesterday where temporary headquarters were established. Seven troop trains carrying approximately 500 troops were used. District

⁴⁰ See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373. In repeating No. 217 to the Consul at Nogales the paragraphs of No. 217 were rearranged so that paragraph three of telegram No. 217 (beginning: "In case any *de facto* authority in your district" etc.) became the penultimate paragraph of telegram to the Consul at Nogales. (812.00 Sonora/463)

through which crossing passes is being looted and forced loans levied irrespective of nationality. Citizens of Los Mochis were compelled to pay 100,000 pesos. Conferred with Commander Comerford of the destroyer *Robert Smith* today making arrangements for the protection of American lives in case of necessity.

DAMM

812.00Sonora/531 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, April 6, 1929—12 a. m.

[Received 2:45 p. m.]

188. Yesterday afternoon I read the substance of your telegram 233, April 4, 5 p. m., to President Portes Gil. He stated that he had already communicated with General Calles with reference to extending consideration to any American prisoners. He had as yet received no word of any American prisoners that had been taken. The only employment of Americans by Federal army that they know about is that of . . . , referred to in my 163, March 27, 4 p. m.⁴¹ So far as enlistments of Americans in the Federal army are concerned, the Government has issued instructions to accept no such enlistments.

The substance of your 233 was also formally transmitted to the Department of Foreign Affairs yesterday afternoon. In our communication we made the request to be advised of any Americans that were in the employ of the Federal army.

MORROW

812.00Sonora/555 : Telegram

The Secretary of State to the Consul at Nogales (Damm)

WASHINGTON, April 6, 1929—8 p. m.

Your strictly confidential telegram of April 5, 4 p. m. has been taken up with Department of Labor which advises that no instructions have been issued by that Department ordering holding of board of enquiry to examine and exclude all civil and military officers of revolution applying for admission into the United States. Labor Department points out that a Board of Special Enquiry cannot be ordered to exclude.

Since responsibility of properly classifying persons applying for visas and the granting or refusing immigration visas to them rests under the law upon American consular officers you should consider all applications for immigration visas as is provided for in Section 2 (a) and 2 (f) of Immigration Act of 1924. Department's March 14, 5 p. m.

⁴¹ Not printed.

instructed you in a sense that would require a strict enforcement of the Immigration Act, a policy which had already been determined upon by this Government.

You may make such use of the foregoing as you deem advisable and you will impress upon any who have intimated or may intimate that American citizens may suffer because of any action of this government, that as stated to you in the Department's March 29, 6 p. m.⁴² this Government has taken steps so that *de facto* authorities may not, after maltreating American citizens or their property or interests in Mexico, find immunity for their acts in a safe refuge in the United States. Also point out that the Government of the United States will seek infliction of due and proper punishment upon all persons responsible for the violation of those rules and principles of international law applicable to situations such as now exist in your district.

STIMSON

812.00Sonora/549 : Telegram

The Vice Consul at Agua Prieta (Jones) to the Secretary of State

DOUGLAS, ARIZ., April 8, 1929—11 a. m.

[Received 4:55 p. m.]

Fighting not yet resumed at Naco. General Topete in conference at this office late Sunday with General Cocheu stated that he had withdrawn troops Saturday because of the fear of causing international complications by bullets falling in American territory. He stated that he will reopen his attack at once. Situation in other parts remain[s] unchanged.

Claim by Harry Baker, American citizen hurt by rebel bomb at Naco, has been settled by *de facto* government to his satisfaction. He has been discharged as well from local hospital.

JONES

812.00Sonora/600

The Assistant Secretary of Labor (White) to the Secretary of State

No. 55639/550

WASHINGTON, April 8, 1929.

MY DEAR MR. SECRETARY: I have the honor to state that advices received from the District Director of Immigration at El Paso, Texas, are to the effect that he has issued oral and confidential instructions (but not written instructions) to inspectors in charge at ports in Western Texas, New Mexico and Arizona that if Mexican revolutionary officers or soldiers or civilian officials or their dependent fam-

⁴² See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373.

ilies attempt to cross the border as refugees, such persons may, upon evidence of activities against the constituted government of Mexico, properly be excluded as likely to become public charges, but that they should be paroled upon claims of jeopardy if not wanted by United States Army or Department of Justice officials. It is manifestly the intention of the District Director in issuing this instruction to have of record an excluding decision of the Board of Special Inquiry in order that the aliens so excluded may be expelled from the country thereafter when such action can be taken without jeopardy to their lives. This instruction was repeated orally and confidentially, but not in writing, by the inspector in charge at Nogales, Arizona, to his subordinates concerned.

The Commissioner General of Immigration has telegraphically instructed the District Director at El Paso that he will handle rebel officers, soldiers and civilian officials seeking in good faith to come to American side to make purchases or transact other lawful business as other applicants of the kind are handled.

I am [etc.]

ROBE CARL WHITE

812.00Sonora/579 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, April 8, 1929—5 p. m.

253. American Consul, Monterrey, telegraphs requesting that hospital supplies which he enumerates and trained nurses are urgently needed for taking care of 436 wounded soldiers who reached Monterrey April seventh. If Mexican Government desires our Red Cross to furnish the hospital supplies, our Red Cross is prepared to do it upon request. Impracticable for our Red Cross to furnish trained nurses. They suggest that perhaps they may be obtained at El Paso or other nearby border towns.

Please take up with Mexican Government and advise Department as soon as possible of decision reached.

STIMSON

812.00Sonora/556 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 8, 1929—10 p. m.

[Received April 9—4:17 a. m.]

Reference Department's telegram April 6, 8 p. m., in reply my telegram April 5, 4 p. m.

Question with this Consulate was not under what condition to grant immigration visas rebel civil and military officers and families because the Department's instructions are being carried out but desired to point out uselessness knowing that according to a blanket order from district director, El Paso, all such persons high and low were to be excluded on broad ground of L. P. C. as all liable to come into conflict with U. S. laws because of their rebel sympathies. Several exclusions had already been made under this order in spite of our visas.

After consultation with inspector in charge Nogales, Arizona, and over telephone with district director yesterday the latter reluctantly conceded modification of the order each case to be decided on its own merits and admitted persons to remain in Nogales, Arizona. This relieves tense situation somewhat for the time being. Mail despatch will be forwarded with full details.

DAMM

812.00Sonora/591 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 9, 1929.
[Received April 10—9:52 p. m.]

From American Consul, Guaymas :

April 9, 9 p. m. Manzo left for Ortiz at 7 o'clock, further destination not known. Destroyer *Robert Smith* arrived here 4 o'clock p. m. Will leave Thursday. Federals again bombed San Blas today apparently without effect.

DAMM

812.00Sonora/573 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., April 9, 1929—6 p. m.
[Received 9:37 p. m.]

Federals from Guadalupe on outskirts of Juarez but have agreed not to attack if rebels leave. One train left for Casas Grandes about 4 p. m. Another train ready to leave. In personal interview General Caraveo promised me to respect American rights and added that there would be no fight unless the Federals came in and attacked. Believe city will turn over peacefully as soon as Caraveo leaves.

DYE

812.00Sonora/575 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, April 9, 1929—8 p. m.

[Received April 10—12:37 a. m.]

196. Your 253 of April 8, 5 p. m. The President told us this afternoon that both the Mexican Red Cross and the Mexican White Cross had offered to furnish hospital supplies at Monterrey and that he had telegraphed to Almazan's chief of staff in Monterrey and had received a reply thanking the local Red Cross Societies for their offer but stating that adequate hospital preparations had been made in advance. He desired us to express his thanks to the State Department, to the American Red Cross and to Consul Balch for the suggestion but under the circumstances it was not necessary to request aid.

MORROW

812.00Sonora/630 : Telegram

The Secretary of State to the Consul at Nogales (Damm)

WASHINGTON, April 10, 1929—7 p. m.

Please forward following to Consul at Guaymas:

"Your April 8, 10 p. m.⁴³ is being telegraphically repeated to Embassy. You will again impress upon rebel authorities principles set out in Department's March 29, 6 p. m.⁴⁴ and inform them that the Government of the United States expects and demands that American life, property, and interests shall receive due and proper protection from all wanton or illegal acts sacrificing or endangering them. Advise Department of action taken."

STIMSON

812.00Sonora/617 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 11, 1929.

[Received 9 p. m.]

From American Consul, Guaymas, April 11, noon.

A number of businessmen and also some Catholics fear violence at the hands of Federals when they arrive. They have not been involved in the revolution and in some cases have been opposed. Respectfully suggest that a good effect might be produced by an official statement of Mexican Government that full guarantees will be granted all inno-

⁴³ Transmitted to the Department in telegram of April 8 from the Consul at Nogales (not printed), reporting among other matters: "presumed that he [Manzo] is about to levy on Guaymas but as yet nothing has been done." (812.00 Sonora/578)

⁴⁴ See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373.

cent persons particularly priests and nuns. The priests here have apparently done nothing but conducted services in the churches. I venture to suggest my personal observation that the interests of Mexico will be best served by the general policy of conciliation of the lesser lights within the movement.

DAMM

812.00Sonora/660

The Secretary of State to the Secretary of Labor (Davis)

WASHINGTON, April 12, 1929.

MY DEAR MR. SECRETARY: I have the honor to acknowledge the receipt of your Department's letter of April 8, 1929, file No. 55639/550, in which you informed me that the Commissioner General of Immigration has telegraphically instructed the District Director at El Paso to handle rebel officers, soldiers and civilian officials seeking in good faith to come to American side to make purchases or transact other lawful business as other applicants of the kind are handled.

In this connection I take the liberty of informing you that it is my understanding that the President's directions as conveyed at the Cabinet meeting of March 15, 1929 are as follows:

(1) The Attorney General, operating through his agencies, would arrest all rebels coming singly or in small groups to the United States, pursuant to the provisions and procedure of the so-called neutrality statutes.

(2) If the rebels were to come to the United States in such large numbers that the agents of the Attorney General could not reasonably handle them, the arrest and detention of such larger numbers were to be taken over by the army.

(3) Individual Federal soldiers—officers or privates—were to be permitted to come and go in the United States freely as heretofore.

(4) Should any large detachment of Federal soldiers come into the United States to be moved across the territory of the United States it would be necessary to secure the consent of the States through which they pass for such movement.

I venture to suggest, therefore, that the instructions issued to representatives of your Department at the Border be amended so that they may be consistent with the instructions issued to the representatives of other Executive Departments of this Government, and that your representatives inform the representatives of the Department of Justice of any admissions of Mexican rebels into the United States in order that appropriate action may be taken by the officials of the Department of Justice in accordance with the President's directions, as indicated above. You may desire to point out to your representa-

tives that as this Government does not recognize the belligerency of the Mexican insurrectionists, the question of neutrality as between warring factions in Mexico does not arise.

I am [etc.]

HENRY L. STIMSON

812.00Sonora/653 : Telegram

The Consul at Chihuahua (Myers) to the Secretary of State

CHIHUAHUA, April 12, 1929—5 p. m.

[Received April 14—2:20 p. m.]

The Federal tax office published an ultimatum today that it does not recognize payment of taxes made to rebels and that tax payers will be fined unless payments are made within the short period indicated. What advice shall be given to inquiring American citizens and companies with regard to payment again of such taxes? Two military trains left yesterday for Ojinaga. Trains will leave tomorrow on the Northwestern, and on Sunday for Ciudad Juarez. Governor Leon is expected [this afternoon?]. It is reported that Senator Nicholas Perez was executed by local troops at Pedrenales.

Embassy has not been notified.

MYERS

812.00Detention/51

The Secretary of State to the Secretary of War (Work)

WASHINGTON, April 13, 1929.

SIR: I have the honor to refer to a telegram dated April 8, 1929, to the Adjutant General from the Commanding General, Eighth Corps Area, transmitting a message dated April 7, from Brigadier General Moseley at Fort Bliss, Texas, to the effect that two Stinson Detroit airplanes piloted by Mexicans had entered American territory from Mexico and landed at Fort Bliss. This Department made informal inquiry of Colonel Ford, Assistant Chief of Staff, on April 9, 1929, as to the identity of the aviators and as to the disposition which had been made of this case.

Concerning the identity of these aviators and airplanes the Ambassador of Mexico advised this Department in note No. 2071, dated April 9, 1929,⁴⁵ a copy of which was informally furnished your Department on April 10, 1929, that Lieutenants Antonio Cárdenas and Arturo Jimenez, the pilots referred to in the telegram under reference, are Mexican Federal Army officers who had been imprisoned by the rebels but had subsequently escaped; and that the Stinson Detroiters piloted by them are the property of the Mexican Federal Government

⁴⁵ Not printed.

and bore numbers 73-13 and 73-14, respectively, before they were repainted by the rebels. The Mexican Ambassador requested in these circumstances that the said airplanes be released and placed at the disposition of the Mexican Consul at El Paso, Texas.

In this connection reference is made to the policy invoked in respect to the disposition of the Mexican Federal troops recently detained at Fort Bliss, Texas, as set forth in my letter of April 2, 1929, and I should be grateful if you would be good enough to issue telegraphic instructions to the appropriate United States Army authorities in order that the said aviators and airplanes may be released and placed at the disposition of the Mexican Consul at El Paso, Texas, with the understanding that all arms and ammunition in the possession of the aviators or forming part of the equipment of the airplanes is to be retained and subsequently handed over to the Mexican Federal Commander at Ciudad Juarez, Chihuahua.⁴⁶

I have [etc.]

HENRY L. STIMSON

611.125/122

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, April 13, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note No. 2133, dated April 12, 1929,⁴⁷ requesting that the customs authorities at Mexican border ports be authorized to prohibit the importation into the United States of cattle stolen by rebels from their Mexican owners.

In reply I have the honor to advise Your Excellency that this matter has been brought to the attention of the appropriate Departments of this Government with a view to prevent the importation into the United States from Mexico of stolen cattle.

Accept [etc.]

For the Secretary of State:

J. REUBEN CLARK, JR.

812.00Sonora/851 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 13, 1929—11 p. m.

[Received April 14—3:40 a. m.]

From Bursley:

Extremely important for you and Department, April 13, 10 p. m.
Very urgent and strictly confidential.

⁴⁶ On April 15, 1929, the Secretary of War informed the Secretary of State that he had issued instructions to the Commanding General, Eighth Corps Area, to turn over the aforesaid officers, the planes, and their arms and ammunition to the immigration officials for return to Mexican territory (812.00 Detention/55).

⁴⁷ Not printed.

Southern Pacific Company has suspended operations creating a dangerous situation and eleven American employees now taking refuge in the Consulate. Railway does not know destination of about six thousand rebel troops southbound but assumes Guaymas or points south. We cannot communicate with destroyer until tomorrow morning, if then. A destroyer needed Guaymas at once.

DAMM

812.00Sonora/699 : Telegram

The Consul at Chihuahua (Myers) to the Secretary of State

CHIHUAHUA, April 14, 1929—7 p. m.

[Received April 16—4:20 p. m.]

General Almazan troop and passenger trains left last night for Ciudad Juarez. The state treasurer published notices today in local papers declaring void all taxes paid from March 3rd to date and demanding that such be paid again immediately.

MYERS

812.00Detention/54

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

No. 2180

WASHINGTON, April 15, 1929.

MR. SECRETARY: I have the honor to acknowledge the receipt of Your Excellency's kind note of April 5 of this year, in which you were so good as to inform me that instructions were duly given to the appropriate authorities of the American Army to permit the return to Mexican territory of the Mexican Federal officer and of the ten soldiers who were arrested by the local authorities of Naco, Arizona, on April 3.

Your Excellency was good enough also to declare to me that the arms and munitions which were in the possession of the said soldiers will be kept for the present by the American authorities and later returned to the Mexican Federal Commandant of Naco, Sonora.

I am happy to inform Your Excellency that the necessary orders will be duly given with a view to preventing Mexican soldiers from crossing the dividing line in the future.

Thanking Your Excellency most sincerely for the attention you were so kind as to give this matter, I am [etc.]

MANUEL C. TÉLEZ

812.00Sonora/693 : Telegram

The Secretary of State to the Consul at Chihuahua (Myers)

WASHINGTON, April 15, 1929—7 p. m.

Your April 12, 5 p. m. is being repeated to Embassy⁴⁸ with instructions to request that appropriate Federal authorities in Chihuahua be instructed by telegraph not to insist upon payment of taxes which have already been paid by American citizens to persons exercising *de facto* authority in accordance with principles of international law set forth in Department's March 29, 4 [6] p. m.⁴⁹ You will advise American citizens who may be forced to repay such taxes to Federal authorities not to pay except under protest and to demand receipts.

STIMSON

812.512/3482 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., April 16, 1929.

[Received 2:45 p. m.]

Two American saloon owners here, who were forced to pay regular taxes to rebel authorities, state that Federal authorities now demand payment to them of same taxes. Kindly telegraph how to advise them and other Americans in same predicament.

DYE

812.00Sonora/700 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, April 16, 1929—5 p. m.

[Received 6:34 p. m.]

210. Your 288, April 15, 7 p. m.⁵⁰ I have addressed a formal note to the Minister for Foreign Affairs in accordance with your instructions and will also speak to the President on the subject this afternoon.

MORROW

812.512/3482 : Telegram

The Secretary of State to the Consul at Ciudad Juarez (Dye)

WASHINGTON, April 17, 1929—6 p. m.

Your April 16 is being repeated to Embassy with instructions to request that appropriate Federal authorities in Juarez and other places in Chihuahua be instructed by telegraph not to insist upon payment of taxes which have already been paid by American citizens to per-

⁴⁸ As telegram No. 288, April 15, 7 p. m.⁴⁹ See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373.⁵⁰ See footnote 48.

sons exercising *de facto* authority in accordance with principles of international law set forth in Department's March 29, 4 [6] p. m.⁵¹ You will advise American citizens who may be forced to repay such taxes to Federal authorities not to pay except under protest and to demand receipts.

STIMSON

812.113Exportation/11

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, April 18, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note No. 1868, dated April 1, 1929, advising that the rebels at Ciudad Juarez, Chihuahua, taking advantage of the fact that coal, gasoline and petroleum are not considered contraband of war, have been importing large quantities of such fuels through El Paso, Texas, to supply locomotives and other vehicles used in moving troops; and that trucks used to transport such fuels also carry contraband ammunition. Your Excellency requests in these circumstances that, if there be no objection, coal, gasoline, petroleum and other fuels be considered contraband of war and that the free exportation thereof be prevented.

I may observe that it will at once be evident to Your Excellency that the suggestion regarding "contraband of war" may be considered as involving various considerations such as, for example, whether by using the term, you intended to suggest that a state of belligerency prevails in the present situation in Mexico, since if such a state is to be regarded as existing it would have far reaching effects upon the present situation as between the two Governments in connection with the disturbances now obtaining in Mexico.

However, pending a reply from Your Excellency on this point, I have the honor to advise that, in consideration of Your Excellency's request in the premises, inquirers regarding the exportation of coal, gasoline, petroleum and other fuels to Mexican territory not under control of the Mexican Federal Government are being advised to the effect that applications for licenses to export the supplies mentioned should be made by the interested consignee in Mexico through the Mexican Embassy at Washington; and that the unauthorized exportation of ammunition referred to has been brought to the attention of the appropriate Departments of this Government.⁵²

Accept [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

⁵¹ See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373.

⁵² No reply to the foregoing appears to have been made.

812.00Sonora/752 : Telegram

The Consul at Guaymas (Bursley) to the Secretary of State

GUAYMAS, April 19, 1929—5 p. m.
[Received April 20—9:20 a. m.]

Situation in Guaymas and Empalme calm. Commander Comerford will debark in Guaymas render all proper assistance refugees who so desire. Commander and I have warned rebel military authorities and customs authorities regarding Anderson Clayton cotton and they promise to protect it so far as possible. Ascertained cotton is subject to the orders of superior officials in Nogales, nevertheless it is doubtful whether market could be found for the cotton under present conditions. Federals have been bombing Navajoa and according to unconfirmed report have wounded a number of rebels. General Enrique Estrada now on the way to Nogales. Commander and I have informed rebels we object to taking of Southern Pacific oil without payment. I have also protested denial of Consulate's right of sending code messages.

Previous representations have resulted for the moment in the cessation of seizures and threatened seizures oil from American companies. Sent to Nogales.

BURSLEY

812.00Sonora/755 : Telegram

The Consul at Guaymas (Bursley) to the Secretary of State

GUAYMAS, April 20, 1929—5 p. m.
[Received April 21—10:20 a. m.]

This morning an informal conference was held between Commander Comerford, consul, representative of Southern Pacific Company, and General Rizo. All pending matters were discussed at length and the most definite and satisfactory promises were made by General Rizo. Rizo has said he will notify me prior to evacuation Guaymas. Removal of soldiers' wives to the north from Navajoa suggests probability rebel retreat imminent especially since [continuous?] bombing and fighting occurring in southern Sonora. Situation here and in Empalme quiet. Four American women, four men, and one child, debarked today from destroyer and returned Empalme. Nogales not advised.

BURSLEY

812.00Detention/72

Memorandum by the Chief of the Division of Mexican Affairs (Lane)

[WASHINGTON,] April 22, 1929.

On April 20, Mr. Harris, Assistant Commissioner General of Immigration, telephoned me to say that the Labor Department had re-

ceived a telegram from the District Attorney at El Paso, to the effect that 18 rebels had entered the United States, armed, at Sasabe, Arizona and were in the custody of the Immigration officials at Tucson, Arizona. Mr. Harris said that the telegram stated that the United States Attorney at Tucson and the United States Army authorities at Tucson both declined to take custody of these rebels.

Shortly after talking with Mr. Harris, I received from Colonel Ford of the War Department a copy of a telegram from General Lassiter transmitting a message from General Cocheu, confirming the entry of the rebels, but stating that they were in the custody of the United States District Attorney at Tucson. I thereupon communicated with the Department of Justice, Mr. Hester, who said that he would telegraph the United States District Attorney not to retain the men in custody. (Mr. Hester informed me this morning that a reply had been received from Mr. Gungl, United States District Attorney at Tucson that he had not accepted the custody of the rebels.) Colonel Ford informed me on April 20 that it was his understanding that rebels of this category were to be taken into custody by the Army. After conferring with the Undersecretary, I confirmed this understanding and so notified Mr. Harris of the Labor Department. I informed Colonel Ford this morning of the advice received today from the Department of Justice to the effect that the men were not in the custody of the United States District Attorney.

A[RTHUR] B[LISS] L[ANE]

812.00Sonora/780 : Telegram

The Consul at Guaymas (Bursley) to the Secretary of State

GUAYMAS, April 22, 1929—1 p. m.

[Received April 23—1:45 p. m.]

Practically entire stock fuel oil of railroad is at Guaymas and Empalme. With operations of railway stopped, rebels have taken over the property and are using it and all necessary supplies to further revolution movement. Strong oral protest made to *de facto* authorities again today for the protection of American interests by Commander and Consulate. If this action and the taking of receipts by the company will protect Southern Pacific interests with the Mexican Government recommend no further action be taken . . . Please repeat to Embassy at Mexico City.

BURSLEY

812.00Sonora/775 : Telegram

The Consul at Guaymas (Bursley) to the Secretary of State

GUAYMAS, April 22, 1929—9 p. m.

[Received April 23—9:30 a. m.]

Federal gunboat, probably *Bravo*, shelled rebel trains near Empalme this afternoon without result. As a precaution Commander Comerford recommended bringing Americans to Guaymas from Empalme and with a naval force I have just brought practically all of them to Guaymas. One shell dropped within three hundred yards of Empalme. Approximately one thousand rebel troops southbound are now between Nogales and Hermosillo, destination not known. Federals may cut railway line just south of Empalme. Please announce publicly all Americans entirely safe. Earlier military information in destroyer's message to the Navy Department.

BURSLEY

812.00Sonora/781 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 23, 1929—6 p. m.

[Received 8:37 p. m.]

From Guaymas.

"Urgent. April 23, 4 p. m. Please expedite reply my April 22, 1 p. m., as similar case arises in connection with Standard Oil Company stocks at Yavaros, and it may become necessary to request to have ordered to Yavaros destroyer *Selfridge* now on the way to relieve *Robert Smith* at Guaymas."

DAMM

812.00Sonora/790 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 24, 1929—7 a. m.

[Received 10:40 a. m.]

From Guaymas.

"For Department. April 23, midnight. Commander and Consul have conferred with officers of the Federal gunboat *Bravo* and have obtained promise not to bombard Guaymas. *Bravo* has just received orders from Calles to bombard Empalme at 9 p. m. tomorrow evening. We have protested bombardment Empalme as unnecessary from military viewpoint and ruinous to railway interests there."

DAMM

812.00Sonora/802 : Telegram

The Secretary of State to the Consul at Guaymas (Bursley)

WASHINGTON, April 24, 1929—noon.

Your April 22, 1 p. m. and April 23, 4 p. m.⁵⁴ Department deems it unwise for American destroyer to undertake to take charge of fuel oil at Guaymas. The Department appreciates the effective cooperation heretofore obtaining between the commander of the destroyer and yourself in measures taken for the protection of American property and the safety of American lives, and hopes that such cooperation may continue.

The Department desires, however, that interposition by you and the commanding officer of the destroyer for the protection of American property shall be confined to action taken in accordance with the Department's March 29, 6 p. m.⁵⁵ and not by taking charge of such property as suggested in your April 22, 1 p. m. Direct interposition, such as is understood to be contemplated by your inquiry, should be reserved for the protection of American life if and when necessary, and except in cases of extreme urgency the Department should be consulted before action is taken.

STIMSON

812.00Sonora/804

The Secretary of State to the Secretary of Labor (Davis)

WASHINGTON, April 24, 1929.

SIR: I have the honor to enclose for your information a copy of a telegram, dated April 15, 1929, from Mr. Gerzayn Ugarte,⁵⁶ concerning Antonio I. Villarreal and Raul Madero, stated to be generals of the Mexican insurrectionist forces, who recently took refuge in the United States and who it is said are under consideration for deportation from this country. In this connection reference is made to the Department's letter of April 22, 1929 regarding Raul Madero.⁵⁶

I may add that Mr. Ugarte is understood to be an agent of the Mexican insurrectionists and that the Department does not deem it expedient to acknowledge his communication inasmuch as this Government does not treat with the agents of the present insurrection in Mexico.

It is requested that this Department be consulted prior to the taking of any action which may be contemplated by your Department now

⁵⁴ See telegram dated April 23, 6 p. m., from the Consul at Nogales, p. 400.

⁵⁵ See telegram No. 217 of the same date to the Ambassador in Mexico, p. 373.

⁵⁶ Not printed.

or at some future date, which may affect the status of Mexican insurrectionists in the United States or their departure from this country.⁵⁷

I have [etc.]

For the Secretary of State:

WILBUR J. CARR

812.00Sonora/837 : Telegram

*The Secretary of State to the Consul at Nogales (Damm)*⁵⁸

WASHINGTON, April 25, 1929—7 p. m.

Repeat following to Guaymas:

"Your April 23, midnight.⁵⁹ Department does not perceive a legal basis upon which to found representations against bombardment of Empalme by forces of the recognized Mexican Government as part of its military campaign, thus far highly successful, to crush out a rebellion against the authority of that Government. Nor is this Government in a position to substitute its judgment for that of the regularly constituted Mexican authorities as to the wisdom, propriety, or effectiveness of legitimate military measures and operations undertaken by the regular Mexican forces to crush such rebellion, except to ask that due notice be given of military operations, particularly the bombardment of unoccupied or unfortified places, which might threaten either American property or American life, in order that Americans may take such precautionary measures against loss as may be possible under the circumstances. It is of course assumed that Federal forces will not wantonly destroy private property nor non-combatant life.

The situation with reference to the rebel forces is entirely different. While the United States has recognized the existence of a condition of hostilities in certain areas in Mexico, this does not imply recognition of a legal state of war, the parties to which have been treated as belligerents. The belligerency of the rebels has not been recognized nor has this Government recognized in this conflict even a semi-belligerency in the form of a recognition that the military operations in Mexico are between two rival warring factions. This Government has recognized only that there is an armed uprising against the regularly constituted Government of Mexico which has adopted measures of suppression which seem now about to be successful. The rebels, therefore, have no international legal status and it would seem that nationally they stand as illegal groups of armed men attempting to overthrow their own Government, and therefore probably having the status of traitors. They are from the standpoint of legal principle, both international and national, in no better position than

⁵⁷ A similar request was made in Department's letter of the same date (not printed), regarding Nicolas Perez, stated to be a Mexican Senator, and Vincente Ramos, said to be Secretary of the Permanent Commission of the Chihuahua State Legislature, who desired to remain in the United States (812.00 Sonora/803).

⁵⁸ Repeated to the Ambassador in Mexico in telegram No. 328, April 25, 3 p. m., with the following instruction: "You may, in your discretion and should the occasion arise, inform the Mexican Government of the contents of this instruction." (812.00 Sonora/833)

⁵⁹ See telegram dated April 24, 7 a. m., from the Consul at Nogales, p. 400.

ordinary outlaws and bandits. Representations of the strongest character may therefore be made to them against injuries by them to American life and American property.

It is of the utmost importance that you keep these legal distinctions in mind as otherwise this Government may find itself in a position where it is not properly fulfilling its international obligations."

Also repeat to Ciudad Obregon for information of Vice Consul and for his guidance should similar situation arise in his district.

STIMSON

812.00Sonora/898

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, April 26, 1929.

EXCELLENCY: I have the honor to refer further to your note No. 2361 of April 22, 1929,⁶⁰ requesting that, provided there be no objection, wounded Mexican nationals at Sasabe, Sonora, Mexico, be permitted to enter the United States temporarily, the expense of medical attention to be paid by the Mexican Government, and to the Department's reply of April 24, 1929.⁶⁰

The appropriate branch of the Government, to which the matter was referred, now advises the Department that telegraphic instructions have been sent to the appropriate United States immigration officials on the Mexican border to the effect that various wounded Mexican nationals who have entered, or who are seeking to enter the United States at Sasabe temporarily for immediate hospital or other appropriate medical attention, assuming that they are unarmed, may be handled under Paragraph 1, Subdivision B, Rule 12, of the Department of Labor, as emergency cases.

There is quoted herewith for your convenience the paragraph cited above:

"Paragraph 1.—Aliens mandatorily excluded and seeking temporary admission from foreign contiguous territory for the purpose of undergoing medical or surgical treatment in the United States may be admitted for such purpose when it appears to the satisfaction of the immigration officer in charge that an emergency exists for immediate medical or surgical aid: Provided, That such alien shall furnish satisfactory guaranty or a bond with approved surety in the penal sum of not less than \$500 conditioned that he will depart from the United States when such medical or surgical treatment is completed. Aliens of the class referred to, seeking temporary admission for the purpose of entering a private or public hospital, sanitarium, or medical institution for treatment, may be admitted for such purpose when it satisfactorily appears to the officer in charge that the designated private or public hospital or sanitarium or medical institution which the alien has arranged to enter for

⁶⁰ Not printed.

treatment has on file with the bureau a bond covering such case and properly conditioned that aliens treated in such designated hospital, sanitarium, institution will depart from the United States when such treatment is completed: Provided, That in either case above referred to alien may be required in the discretion of the officer in charge to submit an unmounted photograph of himself in duplicate. All other applications for temporary admission made by the mandatorily excluded class not herein provided for shall be submitted to the department for special ruling."

Referring to a telephone conversation of today with a member of your Embassy on the above question, I may add that it is the Department's understanding that the appropriate Mexican Consul will make suitable arrangements with the local United States immigration authorities for the furnishing of transportation and such guarantees as may be required in the cases of the Mexicans concerned.

Accept [etc.]

For the Secretary of State:

J. REUBEN CLARK, JR.

812.00Sonora/817 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, ARIZ., April 26, 1929—noon.

[Received 3:10 p. m.]

From Guaymas:

"Urgent for Department. April 26, 10 a. m. Eaton⁶¹ reports Federals bomb dropped through roof of his office yesterday without injury to him but some material damage. I have telegraphed to General Calles and requested that orders be given to prevent repetition of the incident. Eaton also reports rebel retreat under way with destination reported to be Guaymas. Present whereabouts retreating rebels unknown due to the interruption of communications".

DAMM

812.00Sonora/838 : Telegram

The Secretary of State to the Consul at Nogales (Damm)

WASHINGTON, April 26, 1929—7 p. m.

Repeat following to Guaymas:

"Your April 26, 10 a.m.⁶² apparently crossed Department's April 25, 7 p.m.⁶³ which will serve as your instructions. Should similar occurrences such as the bombing of the Consulate at Ciudad Obregon take place in the future, notify Department immediately by telegraph

⁶¹ Vice Consul in charge at Ciudad Obregon.

⁶² See telegram dated April 26, noon, from the Consul at Nogales, *supra*.

⁶³ See telegram of the same date to the Consul at Nogales, p. 402.

in order that the Department may make representations to Federal military commanders for the protection of the consulate.

STIMSON

812.00Sonora/801

The Assistant Secretary of Labor (White) to the Secretary of State

No. 55665/176

WASHINGTON, April 27, 1929.

MY DEAR MR. SECRETARY: I have the honor to acknowledge receipt of a letter addressed to the Secretary of Labor under date of the 22nd instant by Under Secretary J. Reuben Clark, Jr., of your Department,⁶⁴ with which was inclosed copy of a letter dated the 20th instant from Honorable John N. Garner, House of Representatives, together with a copy of a telegram of the same date which he had received from Mr. J. H. Frost of San Antonio, Texas, concerning a report that Mr. Raul Madero, a Mexican insurrectionist, who recently took refuge in the United States, is to be deported to Mexico.

General Raul Madero of the Mexican revolutionary forces entered the United States from Mexico near the port of Presidio, Texas, on or about April 8, 1929, in violation of the Immigration Acts of 1917 and 1924, and is subject to deportation for the following reasons, to wit:

1. That he was not in possession of an unexpired immigration visa at the time of entry;
2. That he was a person likely to become a public charge at the time of entry, and
3. That he entered by land at a place other than a designated port of entry for aliens.

The first and third grounds are admitted by the alien. Upon application of the District Director of Immigration at El Paso, telegraphic warrant was issued for the arrest of General Madero on the 15th instant, and on the same day a formal warrant of arrest was likewise issued. Upon the recommendation of the District Director of Immigration at El Paso, both the telegraphic and formal warrants contained specific authority for the release of this alien upon his own recognizance, provided the District Director of Immigration at El Paso was satisfied that the alien would appear when wanted.

There is no intention upon the part of the District Director of Immigration at El Paso, nor upon the part of this Department, to enforce the return to Mexico of General Madero so long as his life would be jeopardized by such action. It may be that he will sooner or later be given the election of departing to some other country of his choice. However, that is a matter which can be determined in the light of future developments.

I am [etc.]

ROBE CARL WHITE

⁶⁴ Not printed.

812.00Sonora/854 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, April 28, 1929—5 p. m.

344. Following telegram received this morning from U. S. S. *Moody* at Guaymas dated April 27, 5 p.m. :

“On April 26, 6 p.m. rebel troops passed through Cajeme north. Unconfirmed report that these insurgents cut off by burned bridges between Navajoa and Cajeme have joined federal forces. On April 27 Topete in Guaymas states that rebels will evacuate and not defend city but oppose landing of federal troops there from gunboat *Progreso*. General Topete and staff left Guaymas at 11 a. m. One thousand insurgents left Empalme at 3 a. m. Two troop trains about 30 cars each left at noon. Each was shelled by *Bravo*. Insurgents state that Ortiz is destination. Notices dropped on Guaymas that air raid will take place April 28. Have planned to take on board all American citizens and assist in the removal of about 500 foreigners. Mexican steamships *Washington* and *Bolivar* captured by rebels in March have unconditionally surrendered to government gunboat. Guaymas will be completely evacuated by night of April 27.”

Referring to Department's 328, April 25, 3 p. m.,⁶⁵ you may, if you have not already done so, bring the contents of 328 to the attention of the Mexican Government and say that while now refraining from formal representation regarding the matter you wish at the same time to suggest that to avoid injuries to foreign life and property which will inevitably give rise to future discussions between the two governments, the Mexican Government may wish to undertake the bombardment of such places as Guaymas only upon urgent military necessity and after ample warning given. Unless places such as Guaymas are either fortified or are used as concentration points for rebel forces, the Mexican Government might conclude that in view of the presence of foreigners and foreign interests, active military operations might be avoided.

STIMSON

811.111Mexico/203 : Telegram

The Consul at Ciudad Juarez (Dye) to the Secretary of State

EL PASO, TEX., April 29, 1929.

[Received 3:25 p. m.]

A number of Mexican rebel civilians who were granted asylum in the United States now desire to obtain immigration visas to regularize their entry for permanent stay but dare not cross to this side to obtain visas at consulate. Under these unusual circumstances does Depart-

⁶⁵ See footnote 58, p. 402.

ment approve of some one from this Consulate taking such applications at the United States immigration station at the boundary?

DYE

812.24/892 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, April 30, 1929—3 p. m.

[Received 6:22 p. m.]

231. Department's 315, April 22, 6 p. m.⁶⁶ I informed President Portes Gil yesterday afternoon that the Department would shortly advise the Mexican Embassy in Washington that the Government of the United States could no longer supply certain war materials. The President stated that this would be perfectly satisfactory and that his Government would need to buy no further supplies from any source. I later gave the same information to Montes de Oca and he said he thoroughly agreed with the President.

MORROW

812.00Sonora/885 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, April 30, 1929—8 p. m.

351. Reports received through the press and from Nogales through the War Department indicate that the early surrender of Nogales to the Federal forces is contemplated. A telegram from General Cocheu stated that General Borques and General Fausto Topete have entered the United States at Nogales and that no important rebel leaders remain in Sonora near Nogales, Escobar having left for parts unknown.

If you think such action advisable, please suggest to the Government of Mexico that with a view to preventing possible loss of American life and injury to American interests both in Nogales, Sonora, and in the United States, the Government of Mexico give favorable consideration to acceptance of surrender of Nogales, and Agua Prieta also at the proper time. In order that this aim may be consummated you may express the hope that the Government of Mexico will announce that it will accord lenient treatment to those rebellious elements who may now be in Nogales and Agua Prieta provided they surrender immediately and unconditionally.

STIMSON

⁶⁶ Not printed.

811.111Mexico/212½ : Telegram

The Secretary of State to the Consul at Ciudad Juarez (Dye)

WASHINGTON, May 1, 1929.

While Department has endeavored to facilitate in every way possible the temporary entry of aliens from Mexico seeking asylum here aliens intending to immigrate for permanent residence may be admitted only in full compliance with Immigration Act of 1924 including requirement immigration visa which may only be issued by American consular officer abroad. Since consular officers may not act in official capacity while in this country visa applications may properly be taken only after aliens have left the United States.

On the other hand the Department interposes no objection to your making in the United States such preliminary examinations as to the admissibility of these Mexicans as may seem advisable with view to expediting final action on those found to be admissible.

Department advised informally by Department of Labor that no Mexican rebel civilian granted asylum in the United States will be deported to Mexico for the present. This would appear to eliminate plea of emergency in cases of Mexicans referred to.

STIMSON

812.113/10547a : Telegram

*The Secretary of State to the Collector of Customs at Douglas, Arizona*⁶⁷

WASHINGTON, May 1, 1929.

Mexican Embassy at Washington has advised this Department that Agua Prieta surrendered to Federals this morning, that rebel troops are without necessary food supplies, and requested that no further restrictions be placed on exportation of food and other supplies. You are accordingly authorized to permit unrestricted exportation of all food and other supplies not specifically covered by embargo proclamation of January 7, 1924.⁶⁸

HENRY L. STIMSON

812.00Detention/62

The Secretary of State to the Secretary of War (Good)

WASHINGTON, May 1, 1929.

DEAR MR. SECRETARY: In reply to your letter of April 26th,⁶⁹ requesting advice as to the further disposition of the eighteen armed Mexican

⁶⁷ The same, *mutatis mutandis*, to the Collector of Customs at Nogales, Arizona, mentioning Nogales, Mexico, as the place which surrendered.

⁶⁸ *Foreign Relations*, 1924, vol. II, p. 423.

⁶⁹ Not printed.

rebels who recently crossed the border at Sasabe, Arizona, and who it is understood are now in the custody of the United States Army authorities, I have the honor to say that if these men could be held in custody until the insurrectionist movement along the Mexican border has been definitely terminated, it would facilitate the handling of the situation in that area. When the situation at the border has cleared up, it would seem they might be turned over to the United States Immigration authorities for their disposition. If prior to turning the men over to the immigration authorities, you would find it convenient again to consult this Department you could be advised whether any objection existed at that time to their repatriation.

I am [etc.]

HENRY L. STIMSON

812.00Sonora/909

The Consular Agent at Cananea (Gibbs) to the Secretary of State

[Extract]

CANANEA, May 1, 1929.

[Received May 7.]

SIR:

. . . I have been very successful since receiving your instruction on March 29th,⁷⁰ in getting protection for American Interests and American Citizens. I believe that the policy therein outlined, will have wonderful effect on those who anticipate revolutions in the future.

The forced loan quota that had been specified for the merchants of the City of Cananea was \$50,000.00 Pesos.

The man sent from Nogales here to collect this money, a Mr. Cano, was here two days before I received your instruction, and had notified all merchants to appear and pay the amount that had been assessed against each. On receipt of the instruction, I immediately made my protest to all authorities at Cananea, and there was not a forced loan required of an American Citizen, nor of the Chinese merchants whom I had mentioned, separate and apart from my protest on behalf of the American interests. I believe that Cananea suffered less in this respect, than any other place in Sonora considering its wealth and importance.

I am sending a copy of this report to Hon. Henry C. A. Damm, Consul in Charge at Nogales, Sonora, Mexico.

Very respectfully,

J. M. GIBBS

⁷⁰ See telegram No. 217, March 29, 6 p. m., to the Ambassador in Mexico, p. 373.

812.00Sonora/886: Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, May 1, 1929—6 p. m.
 [Received May 2—12:26 a. m.]

233. Presented the substance of your number 351, April 30, 8 p. m., to the President this morning.

The garrisons of four hundred men at Nogales and twelve hundred men at Agua Prieta surrendered yesterday. None of the important leaders were captured. Exact whereabouts of Escobar and Caraveo unknown. General Calles left the Yaqui River for the north at 2 o'clock this morning.

MORROW

812.00Sonora/910

The Consul at Agua Prieta (Jackson) to the Secretary of State

No. 4

AGUA PRIETA, May 2, 1929.
 [Received May 7.]

SIR: I have the honor to refer to my telegrams of May 1, 1929,⁷¹ and in connection therewith to report more in detail in regard to the surrender of Agua Prieta, Mexico, by the rebel officers in control of the garrison to Mexican Federal officials.

Throughout the day previous to the surrender there were indications of unrest throughout the city and as one rebel general after another fled to safety on the American side of the border, it became evident that the revolutionists had given up hope of being able to defend the city against General Almazan's troops, notwithstanding the fact that the Federal troops would not arrive for at least twenty four hours and the rebel forces, consisting of approximately eight hundred men, were well armed and appeared to be well supplied with ammunition.

At midday on April 30, General Barcenas in charge of the garrison informed me that he desired to cross to the American side. He stated that he no longer had any control over the troops and that even though he stayed he would be unable to prevent the troops from looting the city which he expected them to do.

As soon as General Barcenas had crossed the line, I called on General Jacinto Treviño with the view of preventing the looting of the town if possible. General Treviño informed me that he intended to remain in Agua Prieta and assured me he had sufficient control over the troops to prevent disorders. However, two hours later he too fled to the United States, and from then on until midnight there was a general exodus of rebel officers to the American

⁷¹ Not printed.

side, and it was practically impossible to get any one to attempt to control the troops for any length of time. However, at midnight Vice Consul Jones and myself called on General Antonio Medina on the outskirts of the city, who assured me he could control the troops and immediately placed a heavy guard throughout the town, ordered all cantinas closed and all other troops off the streets, and from then on until the city was turned over to the Federal officials, he maintained excellent order throughout the city.

General Medina also informed me at the time I called on him that as practically all the rebel leaders had fled to the United States, he realized the revolutionists had lost and in order to avoid any more bloodshed he was sending an emissary to General Almazan offering to turn the city over to him providing amnesty was granted to his officers and men.

At two o'clock in the morning Mr. Manuel Prieto, representing the Federal Government, and General Flores of the Federal army sent word to General Medina and other generals in Agua Prieta and also to General Gonzales, in command of a cavalry troop of five hundred men near the city, inviting them to a conference on the American side, which they agreed to attend, and shortly thereafter crossed the border to meet with the Federal officials in the United States Immigration office near the line.

The conference ended with the formal turning over of the city to the Federal authorities without disturbance at 6:15 A. M. The conditions of the agreement reached guaranteed the lives of both officers and men in Agua Prieta.

As the only local newspaper here reported that I attended the conference, I desire to assure the Department that neither I nor Vice Consul Jones took any part in the negotiations at any time.

General Almazan with a force of approximately twenty five hundred men entered the city this afternoon, and the remainder of his army is expected to arrive tomorrow. The rebel generals Caraveo and Yocupicio, reported to have several thousand men under their commands, are supposed to be near El Tigre, Sonora, but it is not expected that they will make any attempt to retake this city.

American property in the district has suffered very little damage so far during the revolution, and I am of the opinion that American property rights in the district will continue to be respected by both sides. The last act of General Barcenas, before leaving for the United States, was to turn over to this office eight American owned auto trucks which had been seized by the revolutionary army.

I have [etc.]

WM. I. JACKSON

812.512/3495 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES [ARIZ., undated].

[Received May 3, 1929—6:18 a. m.]

The Federal tax office in Nogales is serving notice on all tax payers, including Americans, that they will within the next few days have to make a manifest of all Federal taxes paid by them to the revolutionary government preparatory to their payment again to the reestablished government. Americans are requesting instruction from the Consulate as to the attitude they should assume in such cases. It should be pointed out that the Consulate was successful in forestalling the payment of all forced loans or other similar measures or contributions not applied to a fixed percentage amongst all the population of the district while the revolutionists were in charge but it was not able to prevent the payment of the usual property and sales taxes. It did informally and unofficially protest to the *de facto* authorities in the district against the payment to them of all taxes by American citizens. The Consulate desires instruction, therefore, whether the ground has not thereby been laid for a protest to the reestablished government against the payment again of all such Federal, state and municipal taxes. It should be pointed out in connection with the latter that local newspapers carry the report that the legislature of the state of Chihuahua has decided to validate state and municipal taxes so paid to the revolutionary government.

Repeated to the Embassy.

DAMM

812.512/3495 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, May 3, 1929—5 p. m.

356. Reference undated telegram received today from Consul at Nogales regarding taxes. Please request that appropriate authorities in Sonora be instructed by telegraph not to insist upon payment of taxes which have already been paid by American citizens to persons exercising *de facto* authority and reiterate the statement contained in last paragraph of Department's 217, March 29, 6 p. m.

Consul is being telegraphically informed of foregoing and instructed to advise American citizens who may be forced to repay such taxes to Federal authorities not to pay except under protest and to demand receipts.

STIMSON

812.00Detention/87

The Secretary of War (Good) to the Secretary of State

WPD 3297-32

WASHINGTON, May 4, 1929.

DEAR MR. SECRETARY: With reference to your letter of May 1, 1929 (Me 812.00 Detention/60 [62]), in which you request that the United States Army authorities continue to hold in custody the eighteen armed Mexican rebels who recently crossed the border at Sasabe, Arizona, I am pleased to advise you that this will be done and that they will not be turned over to the United States Immigration authorities without prior consultation with your Department.

Sincerely yours,

JAMES W. GOOD

812.00Detention/68

The Acting Secretary of State to the Attorney General (Mitchell)

WASHINGTON, May 4, 1929.

MY DEAR MR. ATTORNEY GENERAL: With reference to your letter of April 16, 1929,⁷² expressing your understanding of the latest arrangements between our two Departments regarding the disposition of Mexican Federals or rebels entering the United States, I have the honor to append herewith my understanding of the arrangement as informally reached at a conference held in this Department on April 13, 1929 at which were present representatives of your Department, the Department of Labor and the War Department, and subsequently modified informally as a result of consultation by telephone:

(1) Unarmed rebels admissible under the Immigration laws and not having maltreated American citizens or property in Mexico shall be permitted to enter the United States, it being understood of course that should evidence be developed of any violation of law on the part of the applicants while previously in the United States which would subject them to prosecution, proper action looking to such prosecution would be taken by representatives of the Department of Justice.

(2) Armed rebel combatants seeking or effecting admission into the United States either at a regular port of entry or otherwise shall be taken into custody by the Army.

(3) Individual Federal soldiers—officers or privates—are to be permitted to come to and go from the United States freely as heretofore.

(4) Should any large detachment of Federal soldiers come into the United States to be moved across the territory of the United States, it would be necessary to secure the consent of the States through which they pass for such movement, subject to the approval of the Secretary of Labor.

(5) Should any detachment of Federal troops seek refuge in the United States they shall be disarmed and taken into custody by the Army and turned over to the appropriate Mexican Consul for

⁷² Not printed.

disposition, subject to the approval of the Secretary of Labor. The arms shall be similarly and separately disposed of.

The aforementioned arrangement would appear to be of no immediate practical value in view of the termination of the insurrection in Mexico and I have quoted it merely as a matter of record.

I am [etc.]

J. REUBEN CLARK, JR.

812.512/3497 : Telegram

The Consul at Nogales (Damm) to the Secretary of State

NOGALES, Ariz., May 4, 1929—noon.

[Received May 5—6 a. m.]

Referring to my telegram of May 2nd⁷³ *en clair* with regard to the payment of taxes to the reestablished government by American citizens; the Federal internal revenue inspector for this district has informed individual Americans that the Federal Government objected to their applying to American consuls or the State Department for relief of any kind in this connection. He pointed out that article 27 of the Constitution forbade the application for such relief; furthermore, if they did, a clause of this article provides for the closing of the business pending a hearing before the district judge.

Embassy informed.

DAMM

812.512/3496 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, May 4, 1929—noon.

[Received 4:56 p. m.]

237. Department's 356, May 3, 6 [5] p. m. Embassy again discussed question of taxation with Foreign Office immediately upon the receipt of Consul Damm's telegram of May second⁷³ and is today complying with your instructions under reference.

MORROW

812.512/3498 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, May 6, 1929—1 p. m.

[Received 4 p. m.]

239. Referring to telegram of May 4, noon, from the Consul at Nogales.

I communicated the information contained in this telegram to the Foreign Office and Mr. Sierra informed me that suitable instruc-

⁷³ See undated telegram, p. 412.

tions would be telegraphed to the Federal authorities in Sonora.

While he was not disposed to commit himself definitely I gathered that he felt the authorities in Sonora were not justified in taking the position they appear to have assumed. Repeated to Consul at Nogales.

MORROW

612.0023/90

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

No. 2822

WASHINGTON, May 7, 1929.

MR. SECRETARY: I have the honor to inform Your Excellency that according to instructions received from my Government the Custom-houses at Nogales, Agua Prieta, and Guaymas, have been newly reopened to international traffic.

Accept [etc.]

MANUEL C. TÉLLEZ

812.512/3501a : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, May 8, 1929—6 p.m.

361. Referring to telegram of May 4, noon, from Consul at Nogales, and to your 239, May 6, 1 p.m., Department submits following observations on matter of double taxation to serve as a basis for representations by you to the Mexican Government, in such form as you may deem best should you again find it necessary to take up the matter with the Mexican officials. In such an eventuality your representations to the Mexican Government should be to the following effect:

International law and custom governing this question is so clearly recognized that it is difficult to understand the seeming insistence of local Mexican authorities in running contrary thereto. In taking the position that taxes and customs paid to *de facto* authorities in control of an area (whether they be rebel authorities or authorities of a foreign country) must be considered as if they were paid to the regular authorities of a country, this Government is not invoking a principle that has not been recognized by itself. In the celebrated Castine case which arose out of the occupation by British troops of the port of Castine in Maine, the Supreme Court of the United States itself held that goods imported into Castine during its occupation by British troops were not subject to payment of customs duties under the laws of the United States after the British withdrew, and the United States resumed the exercise of its sovereignty which during British occupation had been suspended. (See *United States v. Rice*, 4 Wheaton, page 246.)

Mr. Fish, Secretary of State, commenting upon the demand by the Mexican authorities for duty on goods imported into Mazatlan while that port was in the occupation of insurgents, stated as to the practice of the United States that "since the close of the Civil War in this

country suits have been brought against importers for duties on merchandise paid to insurgent authorities. Those suits, however, have been discontinued, that proceeding probably having been influenced by the judgment of the Supreme Court adverted to," that is, the judgment of the Supreme Court in the Castine case noted above. (I Moore's *Digest* p. 41 *et seq.* particularly p. 49.)

This Government confidently expects that the Mexican authorities will recognize this principle. It is no fault of Americans in Mexico that the regular constituted Mexican Government may not have been able at certain times and in given areas to enforce its own power and collect its own taxes, nor to protect Americans from the imposition of taxes and other duties by rebels, and therefore Americans who were in no wise responsible for the conditions in such areas, must not now be punished for the forced payment by them of taxes to rebels because of this inability of the regular Mexican authorities to protect them against such payment. If the Mexican authorities can in individual cases show that Americans have been participants in the rebellion, the matter will assume as to these Americans a different aspect.

STIMSON

812.512/3499 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, May 8, 1929—9 p. m.

364. Following from Consul at Nogales, dated May 7.

"The Stearns Marketing Company of Nogales, shippers of winter vegetables operating at Los Mochis, Sinaloa, have been ordered by the Internal Revenue Office at the latter place to pay without delay more than nine thousand dollars in production taxes. Of this amount considerably more than half were actually paid to the revolutionists while they were in power, the remainder being paid by check upon which payment was withheld. The company is willing to pay the latter to the reestablished government but protests the payment of the former. Mr. Stearns desires to know whether the instructions with regard to state of Sonora as outlined in the Department's May 3, 6 p. m.^{74a} apply to Sinaloa as well."

Please request that appropriate authorities at Sinaloa be instructed by telegraph not to insist upon payment of taxes which have already been paid by American citizens to persons exercising *de facto* authority and if you deem it advisable reiterate the statement contained in the last paragraph of Department's 217, March 29, 6 p. m.

Department's May 3, 6 p. m., referred to above, was in response to Consul Damm's undated telegram mentioned in Department's 356, May 3, 5 p. m. Consul is being advised that instructions in reference apply to all cases where demand is made for payment of taxes which have already been paid by American citizens to *de facto* authorities.

STIMSON

^{74a} Not printed.

Press Release Issued by the Department of State, May 8, 1929

REMOVAL OF RESTRICTIONS ON EXPORTATION OF COMMERCIAL AIRCRAFT
TO MEXICO

As a result of the restoration of Mexican Federal Government control over territory recently overrun by insurgents and with a view to continuing its policy of fostering the development of commercial aviation between the United States and Mexico, the Department of State has again removed all restrictions on the exportation of commercial aircraft to Mexico. Accordingly, individual export licenses covering aircraft are no longer required.

612.0023/90

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, May 14, 1929.

EXCELLENCY: I have the honor to inform Your Excellency that the Government of the United States has received with much satisfaction information indicating that the forces of Your Excellency's Government have, as a result of the surrender of Nogales and Agua Prieta, reestablished control of ports in Mexico which were at one time temporarily in the hands of the insurrectionists, and that, according to your note of May 7, 1929, the regular Government custom houses in Nogales, Agua Prieta and Guaymas have been reopened.

In this connection and with relation to Your Excellency's notes dated March 4 and 7, 1929, stating respectively that the closing of all frontier ports and seaports in the State of Sonora had been decreed, I have the honor to advise you, in a spirit of entire friendliness, that following the accepted tenets of international law, the Government of the United States considers that a foreign port in the hands of the enemies of the government to which such foreign port belongs, whether such enemies are foreign or domestic, is to be regarded as if the port were still open and in the hands of the regular government, and being so open, though in enemies hands, the intercourse and commerce of other nations is entitled to continue to flow through it without hindrance or molestation, so far as the regular government is concerned, except where ingress to or egress from such port is physically prevented, by blockade or otherwise, by that government.

Accept [etc.]

HENRY L. STIMSON

812.00Detention/73

Memorandum by the Chief of the Division of Mexican Affairs (Lane)

[WASHINGTON,] May 18, 1929.

Colonel Stanley Ford, of the Military Intelligence Division, called and showed me a telegram which the Department of War had received from Major-General Lassiter, to the effect that the nineteen rebel refugees which had been admitted to the United States at Sasabe, Arizona, during the recent Mexican insurrection, had been turned over on May 3 to the Mexican Consul at Nogales to be returned to Mexico.⁷⁵

A[RTHUR] B[LISS] L[ANE]

812.00Detention/75

The Secretary of State to the Mexican Ambassador (Télléz)

WASHINGTON, May 21, 1929.

EXCELLENCY: I have the honor to inform Your Excellency that I have requested the Secretary of War to turn over to the Mexican Consul General at El Paso, Texas, the arms and munitions of the Mexican Federal troops formally detained at Fort Bliss during the recent insurrection in Mexico.

Accept [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

812.00Sonora/968

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 1645

MEXICO, May 21, 1929.

[Received May 28.]

SIR: Now that the revolution which began on March 3, last, has been finally put down with the surrender of nearly all of the rebel forces, and the escape of the principal rebel leaders to United States territory, it seems appropriate for the purposes of record to give a brief recapitulation of the military operations, which were reported in the Embassy's telegrams and despatches to the Department from day to day at the time they occurred. I understand that Colonel Gordon Johnston, Military Attaché to this Embassy, is preparing a more exhaustive and scientific report of the military operations, containing information of special interest to the War Department.

⁷⁵ The following notations appear at the bottom of this memorandum:

"Mr. Lane:—What about the safety of these men? J. R[euben] C[lark]." "May 18—3:45 p. m. Telephoned the Mexican Ambassador regarding this action, saying that of course we assumed no injury would be inflicted upon these men. He assured me they would be perfectly safe; but to guard against any peradventure he would telegraph both to the Mexican Consul at Nogales and to Mexico City. J. R[euben] C[lark]."

The revolution of March 3 was not unexpected by the Government. As reported in the Embassy's telegrams, No. 27 dated February 19, 1929, 11 a. m., and No. 30 of February 21, 1929, 2 p. m.,⁷⁶ it was known that General Francisco R. Manzo, Governor Fausto Topete and Ricardo Topete, all warm partisans of General Obregón, who felt that they had not received proper consideration by the Provisional Government, were fomenting trouble in Sonora. I am told that General Manzo was ordered to come to Mexico and report, which he refused to do, and that an effort to remove some of the troops under his command was blocked by him. General Aguirre of Veracruz was also suspected by some of disloyalty. He was in Mexico the last day of February but returned to Veracruz on March 1. General Calles had complete faith in General Aguirre and was surprised at his defection.

General Calles was appointed Secretary of War on March 4, in place of General Amaro, who was on leave undergoing medical treatment of an injury to his eye which unfitted him for military service. From the time of his appointment General Calles assumed direct charge of all military operations.

It was considered likely from the first that General José Escobar, commanding the Laguna District with headquarters at Torreon, would join the revolution. Doubt was expressed as to the loyalty of General Figueroa, commanding the Jalisco District, and General Urbalejo, commanding in Durango. The former remained loyal. General Urbalejo went with the rebels, but owing to the defection of a part of his own men, did not play an important role. From the beginning the Government counted upon the loyalty of General Jesús M. Almazán, Commander in Coahuila and Nuevo León; and General Abelardo Rodriguez, Governor of the Northern District of Lower California. There were rumors that General Almazán's loyalty was doubtful, but these appear to have been without foundation. Immediately upon the outbreak of the revolution, General Almazán came to Mexico City (just avoiding capture by the rebels at Saltillo) and held conferences with the President and General Calles, after which he returned immediately to take command of the loyal troops in the North. General Ferreira had been removed from the command of troops in the State of Chihuahua shortly before the rebellion broke out. He was arrested at the time of the revolt and has since been dismissed from the army. Governor Marcelo Caraveo of the State of Chihuahua after some hesitation finally joined the revolution on March 5th. He was in a difficult position with rebel forces both north and south of Chihuahua. The loyalty of General Ríos Zertuche of the State of Mexico and General Fox of the State of Oaxaca was

⁷⁶ Neither printed.

also suspected and apparently with some reason. Neither of them rebelled but both of them were later dropped from the army. After the first few days there were no further important defections from the Government, although rebel forces came over to the Government side from time to time, throughout the campaign.

In the Embassy's despatch of March 18, 1929, No. 1505,⁷⁷ I reported the figures given me by the Minister of Finance showing the troops actually stationed in the rebel districts as shown by the payrolls. These showed 54 Generals, 309 Field Officers, 1313 Officers and 16,954 troops in rebel territory. Our first reports to the Department gave General Manzo in Sonora 4,400 troops; General Aguirre in Veracruz a little over 2000 men; General Escobar at Torreon about 2,500 men. We credited the rebels with having 10,000 troops in all, a figure which I still feel was approximately correct as of that date.

By March 5th the military campaign had opened and the lines had formed. General Escobar was advancing from Torreon on Monterrey. Railway traffic between Mexico City and the border went only to San Luis Potosi on the Laredo line, and to Cañitas on the El Paso Line. On the road to Veracruz traffic did not move beyond Puebla. The states of Sonora, Chihuahua and Durango were definitely rebel territory. Traffic with the border was quickly resumed via San Luis Potosi and Tampico, and General Almazan left Mexico City with four regiments via that route for Montemorelos, where the troops were mobilizing, to attack Escobar. General M. Acosta in command of loyal troops left for Esperanza to attack General Aguirre in Veracruz. General Escobar reached Monterrey on March 4th, where he attacked a much smaller body of loyal troops under General Zurrioga (who refused to join the rebels) and defeated them, capturing the city. General Zurrioga was killed in the engagement.

On March 6th, General Escobar evacuated Monterrey, retreating to Saltillo and thence to Torreon. General Almazan with 14 regiments (including five loyal regiments from Nuevo León) immediately occupied the town and took up the pursuit of General Escobar's forces.

A concentration of 8,000 federal troops was also made at Irapuato, a railway center in Guanajuato, and this reserve depot was maintained throughout the campaign, men being withdrawn from there for service with the advance columns, and replaced by new reserves.

On March 6th heavy street fighting broke out in Veracruz between elements of General Aguirre's command, two regiments of which wished to remain loyal, and attacked the remaining three which with General Aguirre had joined the revolution. The federal troops were then at Orizaba. Following this defection among his own men,

⁷⁷ Not printed.

and the street fighting, which seems to have been a draw, General Aguirre apparently realized that he could not hope to hold Veracruz in the face of the advancing federals, and after making an offer of surrender on condition that amnesty would be granted to himself and his officers, which was refused, he evacuated Veracruz on March 6, going south with about two regiments which remained loyal to him. The federal forces advancing from Orizaba under General Acosta reoccupied Veracruz on March 7, without further fighting and immediately sent a column of 2,000 men in pursuit of Aguirre; while another column of loyal forces advanced north from the Isthmus of Tehuantepec to head him off. General Aguirre's remaining forces rapidly disintegrated and when captured by the Federals on March 20 he was all alone. He was promptly tried by court martial and executed on March 21.

The reoccupation of Veracruz on March 6 terminated the rebellion in this section of the country and the greater part of the Federal forces were shortly transferred from there to the concentration base at Irapuato where they were available for service in the North. Damage to the Mexican Railway during this Veracruz campaign was very slight, and rail communication between Mexico City and Veracruz was resumed on March 8.

On March 8 (See Embassy's telegram No. 82, March 8, 1929, 10 p. m.)⁷⁸ General Calles left Mexico City to assume personal charge of the military operations in Durango, Chihuahua and Coahuila. In the campaign which followed and resulted in such a disastrous defeat for the rebels, General Calles was primarily responsible for the strategy adopted. General Almazan deserves the chief credit for the tactics employed in the operations north of Torreon.

Briefly, the plan of campaign was as follows: With General Escobar holding Torreon with about 4,000 men; General Almazan was to advance from Saltillo on the main railway line, while another federal column under General Ortiz advanced parallel to him on the line through San Pedro. Another column under the personal command of General Calles was to advance via Aguascalientes, Zacatecas, Cañitas (then held by the rebel General Urbalejo) Sombrerete and Durango, on Torreon following the railroad all the way.

By these manoeuvres General Escobar was unable to advance from Torreon into federal territory along any one of the four railroad lines without a battle. Only the line of retreat to Jimenez and Chihuahua was left open, and it was hoped that this line might be cut before he could escape.

In the meanwhile operations in Sinaloa, where the rebels were advancing from Sonora on Mazatlan, were to be postponed for the

⁷⁸ Not printed.

time being; General Carrillo with 1,800 men being ordered to remain in Mazatlan and hold it at all costs. This city is considered as practically impregnable if well defended.

On March 9 the railway was cut by federal cavalry above Cañitas, thus hemming in General Urbalejo, who retreated to the mountains to the east with his cavalry, although most of his infantry deserted him at this time and went over to the federals. Urbalejo made his way to the main body of rebels and was with them during the rest of the campaign.

General Cedillo, with 4,000 men moved from San Luis Potosi to Saltillo, from where he joined General Almazan who came up with about 3,000 men, from Monterrey; they reoccupied Saltillo on March 12; the rebel rear guard of about 700 men escaping to Torreon.

General Calles with Lopez' column of about 5,000 reached Durango on March 15; General Ortiz reached San Pedro, and General Cedillo reached Viesca the same day. There were about 8,000 men in these last two columns.

On the night of March 17 the rebels evacuated Torreon, getting away safely, although an unsuccessful attempt was made by a Federal cavalry column to cut the railway line from Torreon to Jimenez at Escalon. The three main bodies of federals were still from 60 to 100 kilometers from Torreon, which the advance forces reached on March 18; General Calles arriving the next day after repairs had been completed on the railway between Yerbanis and Torreon which had been badly damaged. Escobar retreated rapidly to Jimenez, destroying the railroad as he went.

At this time the rebels held all the ports of entry in Chihuahua and Sonora except Naco, which was held by 900 troops who remained loyal to the Government, and although constantly threatened with attack by superior forces of rebels, held this port for the Government throughout the campaign.

By March 22 a force of rebels whose number was not accurately known had reached Mazatlan and made a short attack on the city without success; Generals Manzo, Cruz and Iturbe apparently led the rebel column in Sinaloa. They do not appear to have had over 1,500 men.

After the reoccupation of Torreon, General Calles divided his forces into three armies of which the first under General Almazan comprising 7,000 men undertook the pursuit of Escobar; the second, under General Cardenas, comprising 9,000 men, part of whom were drawn from the depot at Irapuato, was sent via Durango, Irapuato and Guadalajara to the relief of Mazatlan and to drive the rebels out of Sinaloa, and advance on Sonora; the third, under General Cedillo, with 7,000 men, was, until needed elsewhere, to be stationed in the

Jalisco, Durango, Zacatecas, Guanajuato region to protect the railways and put down banditry; General Figueroa, with 8,000 troops, which had never been withdrawn from Jalisco, were to cooperate. Another 1,000 troops in Guanajuato and 800 in Michoacan were to be used for the same purposes.

A vigorous attack on Mazatlan developed on March 23-25, which was wholly unsuccessful and the rebels retreated north to Culiacan, having suffered considerable losses. Cárdenas reached Mazatlan on March 29 and immediately took up the pursuit of the rebels with about 6,000 men.

After a difficult advance over the desert between Escalon and Jimenez, which was made partly by train and partly by motor truck, and a minor engagement at Corralitos on March 30, the federal column, under General Almazan, reached Jimenez on April 1. Here General Escobar had made a stand with all the forces he had brought from Torreon, together with the remnants of Urbalejo's forces and all that could be gathered by Caraveo in Chihuahua.

After a battle lasting from April 1 to April 3 the federals were completely victorious. By cutting the railway line at Reforma, north of Jimenez, they prevented the escape of much of Escobar's infantry, although Escobar himself escaped to Chihuahua (it is said by aeroplane) and some of his infantry and most of his cavalry also made good their retreat. In this battle the rebels are estimated to have had 6,000 men, and according to the official figures given out by the government, in the fighting from March 30 at Corralitos, to April 3 at Reforma, the rebel dead were 1,136, and the rebel prisoners, which included the wounded, were 2,058. (See Embassy's despatch No. 1557 of April 11.)⁷⁹

Following the battle at Jimenez, the rebels retreated rapidly, making only brief stops at Chihuahua and Juarez, whence they proceeded over the Mexican Northwestern Railway to Casas Grandes and thence via Pulpito Pass to Agua Prieta, arriving on April 13. They left Agua Prieta on April 15th for Southern Chihuahua, where it was announced that they would join with the rebel forces who had retreated from Sinaloa in making a joint "southward drive". The forces who participated in this retreat appear to have numbered between 1,500 and 2,000 men. Escobar does not seem to have been with them much of the time.

The rebels were pursued by General Almazán as fast as the repairs which it was necessary to make to the railroads would permit. He reached Chihuahua on April 10, Juarez on April 14 and Casas Grandes on April 17, leaving there on April 22 for the trip over Pulpito Pass. It is reported that General Caraveo with about 400

⁷⁹ Not printed.

men remained in the Pass to oppose General Almazán's advance and that some of the roads in the Pass were torn up. General Almazán did not reach Agua Prieta until May 2, after the surrender of the rebel forces there.

After the battle of Jimenez, General Calles proceeded immediately with 1,000 additional troops to the Sinaloa front arriving at Mazatlan on April 9, and took up the pursuit of the rebels with a mobile force of 8,000 men available after garrisoning the towns and protecting the railroad along his lines of communication. He reached San Blas on April 17, where he was delayed for two days while repairs were made to the long bridge of the Southern Pacific Railway crossing the Fuerte River. The rebel forces, after their failure to take Mazatlán, had retreated rapidly to San Blas, where they at first threatened to make a stand; but on the approach of General Calles' column they retreated without a battle to Masiaca, while other troops from the north went south as far as Navajoa. At this time there were indications that a final and decisive battle would be fought between Masiaca and Navajoa, and that the rebels numbering perhaps 2,500 men had made preparations for defence.

During the latter part of the campaign, however, the federals made extensive and effective use of their aeroplane forces. The rebels were bombed repeatedly from San Blas to Navajoa and Cajeme, and from the accounts which have reached the Embassy, they were utterly demoralized by this form of attack. It was probably the first time that aeroplane bombardment was made use of in a Mexican revolution, and during the last days of the rebellion it apparently had a pronounced effect. When the federal cavalry and infantry reached Masiaca on April 25th, they found that most of the rebels had dispersed and the rest were ready to surrender. (See Consul Blocker's despatch No. 399 of May 8.)⁸⁰

On April 26th General Abelardo Rodriguez, who had crossed from Lower California to Sasabe with a small column, and who also had a squadron of aeroplanes, succeeded in cutting the railroad half way between Nogales and Hermosillo, and his planes were active in bombing rebel trains.

At about the same time the federal gunboats *Bravo*, *Progreso* and *Acapulco* shelled the rebel positions near Empalme, outside of Guaymas, and the federals landed forces from these vessels and occupied Guaymas on April 28, driving inland the few remaining rebels who did not surrender.

By April 28 General Almazan had come through Pulpito Pass and was extending his right flank to cut off the retreat of the rebels at Agua Prieta. Small groups of rebels were surrendering daily to

⁸⁰ Not printed.

the federal forces and offers of surrender were received from several of the military leaders. General Manzo had already crossed to the United States on April 13 and General Urbalejo on April 20. Following the rout of the rebels by the federal aeroplanes in Southern Sonora, many of the leaders, including the two Topetes and General Borquez went to Nogales, from whence they crossed into the United States.

On April 30, about 650 rebels in Nogales, deserted by their leaders who had crossed the border, surrendered under an agreement made through the Mexican Consul in Nogales, which gave the rank and file two months' pay and reinstatement in the federal army; and also reinstated the officers of the lower grades. On May 1 the rebel forces at Agua Prieta, numbering 1,200 men, also surrendered, the lives of all being guaranteed. (See despatch No. 4 of May 2 from the Consul at Agua Prieta and despatch No. 549 of May 3 from the Consul at Nogales,⁸¹ for an interesting account of the events in connection with the surrender). By this time General Calles and his column had reached Cajeme from whence, on May 2, he was able to proceed to Hermosillo, and then to Nogales.

General Escobar is believed to have crossed the frontier on May 3, and, with the exception of Generals Caraveo and Cruz and Yucupicio (a Yaqui General who had commanded the rebel troops in front of Naco throughout the campaign), all the rebel Generals and most of the political leaders had fled to the United States by that date. The three generals just mentioned appear to have taken to the mountains with small bands of followers, presumably with the intention of carrying on a campaign of banditry.

The revolution being ended, General Calles, after holding conference with the restored Federal authorities in the reoccupied territory, returned to Mexico City, arriving on May 12th. General Calles resigned as Secretary of War on May 20th, as reported in my despatch No. 1637 of today.⁸²

I have [etc.]

DWIGHT W. MORROW

812.512/3503

The Secretary of State to the Vice Consul at Durango (Bonnet)

WASHINGTON, May 25, 1929.

SIR: The Department acknowledges the receipt of your despatch No. 85 of May 6, 1929,⁸³ reporting that the Governor of Durango has advised your Consulate that he has issued orders to tax officials of the State of Durango to investigate carefully the circumstances in

⁸¹ Latter not printed.

⁸² Not printed; it is dated May 20.

⁸³ Not printed.

each case where taxes were collected by *de facto* authorities between March 4th and March 14th, and to use their best judgment in deciding whether the tax payers should be forced again to pay such taxes.

Although it appears from your despatch No. 87 of May 10, 1929,⁸⁴ that the attempt to collect a second payment of taxes from Mr. W. C. Bishop, an American citizen owning property in your district, has been abandoned, and that you have been unable to learn of any other instances in which American citizens have been requested to make a second payment, you are instructed to advise the Governor of Durango that the Government of the United States will regard payments of taxes of all kinds made to *de facto* authorities in control of certain disturbed areas in Mexico, under the circumstances set forth in the quoted portion of the Department's mail instruction of April 23, 1929,⁸⁴ as constituting a due and proper payment of such taxes in the amounts paid and as completely relieving American citizens so having paid such taxes from any and all further obligation in regard to such payment.

I am [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

612.0023/93

The Secretary of State to the Mexican Ambassador (Télez)

WASHINGTON, May 29, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note No. 2941 of May 13, 1929,⁸⁴ stating that the port of Yavaros, State of Sonora, has been reopened to international traffic, and that, with the opening of the Customhouse at that place, none of the border or seacoast Customhouses, which were closed by reason of the recent insurrection, now remains closed.

In this connection the Department begs to refer to its note of May 14, 1929, touching this question.

Accept [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

812.512/3512

The Vice Consul at Durango (Bonnet) to the Secretary of State

No. 101

DURANGO, June 1, 1929.

[Received June 8.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction of May 25, 1929, File No. 812.512/3503, in which

⁸⁴ Not printed.

reference is made to despatch No. 87 of May 10, 1929,⁸⁵ and previous reports and this office is instructed to advise the Governor of Durango that the Government of the United States will regard payments of taxes of all kinds made to *de facto* authorities in control of certain disturbed areas in Mexico, in the circumstances set forth in the quoted portion of the Department's mail instruction of April 23, 1929,⁸⁵ as constituting a due and proper payment of such taxes and as completely relieving American citizens so having paid such taxes from any and all further obligation in regard to such payment.

Upon the receipt of the Department's mail instruction of April 23, 1929, the Governor of Durango was advised of the position of the Government of the United States in respect to payments of taxes to *de facto* authorities as stated in that instruction; the subject had been discussed previously with the Governor. This office was not supplied with a copy of the Governor's instruction to tax officials of the State of Durango but it was understood that the Governor had adopted the most expedient method for protecting American citizens from a second assessment of taxes which had been paid to *de facto* authorities. The Governor accepted the statement of the position of the Government of the United States without discussion.

Although this office has made every effort to give full publicity to the meaning of the Department's mail instruction of April 23, 1929, it has been unable to learn of other cases in this district in which efforts have been made to again collect taxes from American citizens which had been paid to *de facto* authorities.

Copies of this despatch are being forwarded to the American Embassy and Consulate General at Mexico City for the information of those offices.

I have [etc.]

ELLIS A. BONNET

812.00Sonora/983

The Secretary of State to the Consul at Guaymas (Bursley)

WASHINGTON, June 7, 1929.

SIR: The Department acknowledges the receipt of your despatch No. 466 of May 1, 1929,⁸⁵ reporting that, in view of the probability of air raids by Federal forces, you displayed the American flag daily over your Consulate during the last three weeks of the recent revolution, and that you advised certain American citizens in Guaymas to display the flag until the Federals had regained control of that port. It is noted that you based your action and advice upon information indicating that a similar procedure had been observed during past revolutions and specifically upon a state-

⁸⁵ Not printed.

ment beginning at the foot of page 136, Volume 2 of Moore's *International Law Digest*, reading as follows:

"The display of the flag, not as denoting extraterritorial jurisdiction, but as indicating the foreign ownership of the property covered thereby, has become so far a usage in countries liable to domestic disturbances as to warrant its convenient continuance."

It is further noted that the display of the American flag by American-owned firms in Guaymas was followed by a general display of French, Spanish, German, Chinese and other flags, and that no objection was made thereto by Federal or rebel authorities.

In reply you are informed that your action as reported in your despatch meets with the Department's approval.

I am [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

812.24/927

War Department Memorandum for the Assistant Chief of Staff, G-2

G-4/12846-1

WASHINGTON, June 11, 1929.

GOVERNMENT PROPERTY SOLD TO THE MEXICAN GOVERNMENT

1. The following is a list of Government property and value thereof, which has been sold to the Mexican Government:

Item	Quantity	Value	Cost of pack. handl. & Transp.
Bombs, 25 lb. Fragmentation.....	1, 000	\$29, 850. 00	\$25. 00
Cartridges, ball, Cal. .30.....	500, 000	21, 000. 00	.....
Guns, machine, cal. .30 Lewis Aircraft, M1918.....	18	5, 088. 24	.....
Accessories.....	Miscl.	1, 164. 24	54. 00
Guns, machine, cal. .30 Browning, M1918 M I.....	9	2, 344. 95	.....
Accessories.....	Miscl.	135. 90	27. 00
Aircraft Armament & Accessories.....		4, 444. 83	444. 48
Express charges.....			72. 87
Rifles, US Cal. .30, M1917 Enfield, Complete.....	3, 000	111, 510. 00	.....
Cartridges, cal. .30, Gr. 9M, M1906....	1, 500, 000	63, 000. 00	.....
Bombs, 25 lb. Fragmentation.....	1, 000	29, 850. 00	25. 00
Bombs, 50 lb. Demolition, Mark I.....	500	18, 880. 00	25. 00
Grenades, Rifle—tear-gas.....	2, 500	8, 800. 00	10. 00
Rifles, US Cal. .30, M1917 Enfield, incl. bayonet & scabbard.....	2, 000	74, 340. 00	.....
Cartridges, ball, Cal. .30, Gr. 2M, M1906.....	1, 000, 000	42, 000. 00	.....
Spare parts for 5,000 Rifles, US Cal. .30, M1917.....		7, 237. 13	.....
Cleaners (Oiler & Thong cases with Br. & Thong).....	1, 000	243. 60	.....
Bombs, 25 lb. Fragmentation.....	500	14, 925. 00	20. 00
Bombs, 100 lb. Demolition, Mark I....	100	14, 131. 00	.....
Cartridges, tracer, cal. .30, Gr. M-1....	10, 000	767. 00	.....
X-ray machine, Bedside model (No. 60670, compl., w. extra globe).....	1	560. 00	.....

Item	Quantity	Value	Cost of pack. handl. & Transp.
Guns, machine Cal. .30, Lewis Aircraft M1918.....	9	\$2, 544. 12	\$27. 00
Accessories for Lewis mach. guns.....		582. 12	
Flexible Ring Mounts.....	9	1, 422. 00	
Bomb Racks—Type A-3.....	18	1, 772. 10	352. 67
Bomb Rack Accessories.....		332. 64	
Bombs, 100 lb. Demolition, Mark I.....	100	14, 131. 00	50. 00
Transp. charges—replacement fm. Charleston, SC of like no. of similar Bombs.....			455. 79
Cartridges, tracer, cal. .30, Gr. M-1....	3, 000	230. 10	7. 90
Cartridges, ball, cal .30, Gr. M-2.....	50, 000	2, 100. 00	
Machine Guns, Lewis, Cal .30, M1918, Aircraft.....	6	1, 696. 02	
Accessories for Lewis Machine Gun, M1918, Aircraft.....		388. 08	
Machine Guns, Browning, Aircraft, (Hand firing) Mark M I.....	3	781. 65	7. 50
Accessories for Browning M. G.'s.....		75. 30	
Machine Guns, Browning, cal. .30, M1918, M I.....	9	2, 344. 95	27. 00
Accessories for above Browning.....		225. 90	
Gasoline and Oil.....		379. 86	
Totals.....		\$479, 277. 73	\$1, 631. 21
Aggregate.....		\$480, 908. 94	

E. E. BOOTH

Brigadier General, Assistant Chief of Staff

By WM. B. WALLACE

Lieut. Colonel, General Staff Executive

812.512/3518

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 1722

MEXICO, July 2, 1929.

[Received July 9.]

SIR: I have the honor to acknowledge the Department's telegram No. 407, dated June 28, 1929, 6 p. m.⁸⁸ instructing the Embassy to request that the appropriate Federal authorities in Sonora be instructed not to insist upon the payment of taxes already paid by American citizens or firms, especially El Tigre Mining Company, Nacozari Railroad Company and the Moctezuma Copper Company, to persons exercising *de facto* authority during the recent insurrection, and to enclose herewith copy of a telegram dated July 1, 1929, 2 p. m., sent to the American Vice Consulate at Agua Prieta, Sonora,⁸⁸ in reply to its telegram dated June 27, 1929, 6 p. m.⁸⁸ on the same subject. The subject of the request by Federal author-

⁸⁸ Not printed.

ities in Agua Prieta for payment by the three American companies mentioned above of taxes already paid to Mexican rebel forces when in control of the Agua Prieta district was taken up with the Chief of the Diplomatic Department of the Foreign Office. He informed the Embassy that some difficulty had been experienced with minor officials in the Ministry of Finance and Public Credit in giving them a proper understanding of the provisions of international law covering such cases. He stated that he thought that the matter was now perfectly understood by the officials of the Ministry of Finance and Public Credit in Mexico City. With regard to the particular cases of El Tigre Mining Company, Nacozari Railroad Company and the Moctezuma Copper Company, he said that he would see that a telegram was sent to the appropriate authorities at Agua Prieta, giving the instructions requested by the Department.

I have [etc.]

DWIGHT W. MORROW

812.113/10567a : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, July 2, 1929—1 p. m.

409. In accordance with conversations had with you recently by officers of the Department it is suggested that the present may be a propitious time for the Government of the United States to raise the embargo on arms with respect to Mexico. If you now concur in the wisdom of such a move, the Department would appreciate it if you would take the matter up informally with the Government of Mexico and make the suggestion that the Government of Mexico request the Government of the United States to revoke the Presidential Proclamation of January 7, 1924 which put the embargo in force.⁸⁹

Report by telegraph of action taken.

STIMSON

812.113/10572 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, July 16, 1929—noon.

[Received 3:22 p. m.]

287. Your 409, July 2, 1 p. m. and my 283, July 3, noon.⁹⁰ Yesterday the Acting Minister for Foreign Affairs requested orally on

⁸⁹ *Foreign Relations*. 1924, vol. II, p. 428.

⁹⁰ Latter not printed.

behalf of the Government of Mexico that the American embargo on the shipment of arms to Mexico be lifted.

MORROW

812.113/10572

The Secretary of State to President Hoover

WASHINGTON, July 18, 1929.

MY DEAR MR. PRESIDENT: I transmit herewith for your signature, a Presidential Proclamation⁹¹ lifting the embargo which has been in force since January 7, 1924, on the shipment of arms to Mexico. This action is taken pursuant to a request from the Mexican Government. Both Ambassador Morrow and I approve of the proposed course of action. The Presidential election in Mexico takes place in November and the new President will presumably be inducted into office on February 5, 1930. If our action is delayed until the election or thereafter, it would undoubtedly be susceptible to mis-interpretation. I therefore recommend that the Proclamation be issued without delay.

I also transmit for your approval a release⁹² which I propose to issue to the press as soon as the signed Proclamation is returned by you.

I enclose for your reference a copy of President Coolidge's Proclamation of January 7, 1924⁹³ which it is proposed now to revoke. I also transmit herewith a copy of President Wilson's Proclamation of February 3, 1914⁹⁴ which lifted the embargo imposed during President Taft's administration.⁹⁵

I am [etc.]

HENRY L. STIMSON

812.113/10580a

The Acting Secretary of State to Consular Officers in Mexico

WASHINGTON, August 8, 1929.

SIRS: There is enclosed herewith, for your information, a copy of the Proclamation issued by the President on July 18, 1929, lifting the embargo which had been in force since January 7, 1924, on the exportation of arms and munitions of war to Mexico. Accordingly, Department of State licenses to export such material to Mexico are no longer required.

I am [etc.]

J. P. COTTON

⁹¹ Same as signed proclamation, p. 432.

⁹² Not printed.

⁹³ *Foreign Relations*, 1924, vol. II, p. 428.

⁹⁴ *Ibid.*, 1914, p. 447.

⁹⁵ Proclamation of March 14, 1912, *ibid.*, 1912, p. 745.

[Enclosure]

Proclamation No. 1885, July 18, 1929, Lifting the Embargo on the Exportation of Arms or Munitions of War to Mexico

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, by a Proclamation of the President issued on January 7, 1924, under a Joint Resolution of Congress approved January 31, 1922, it was declared that there existed in Mexico such conditions of domestic violence as were or might be promoted by the use of arms or munitions of war procured from the United States; and

WHEREAS, by the Joint Resolution above mentioned it thereupon became unlawful to export arms or munitions of war to Mexico except under such limitations and exceptions as the President should prescribe:

Now, therefore, I, Herbert Hoover, President of the United States of America do hereby declare and proclaim that, as the conditions on which the Proclamation of January 7, 1924, was based no longer obtain, the said Proclamation is hereby revoked.

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 eighteenth day of July, in the year of our Lord one thousand nine hundred and [SEAL] twenty-nine, and of the Independence of the United States the one hundred and fifty-fourth.

HERBERT HOOVER

By the President:

H. L. STIMSON,
Secretary of State.

812.00Detention/97

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, August 21, 1929.

EXCELLENCY: Referring to your Embassy's note No. 3854, of June 28, 1929,⁹⁶ with reference to certain arms and ammunition deposited with United States Federal authorities at Naco, Arizona, by Mexican Federal forces early this year, I take pleasure in informing Your Excellency that, in compliance with your Embassy's request, the appropriate branches of this Government have been requested to issue suitable instructions looking to the delivery to the Mexican Consul at Naco, Arizona, of the arms and ammunition in question.

Accept [etc.]

For the Secretary of State:

J. P. COTTON

⁹⁶ Not printed.

812.512/3522

The Chargé in Mexico (Johnson) to the Secretary of State

No. 1832

MEXICO, August 27, 1929.

[Received September 3.]

SIR: 'I have the honor to refer to the Embassy's despatch No. 1799 of August 13, 1929,⁹⁷ relative to the attitude of the Mexican Government, as reported in the press, toward the collection of taxes which have already been paid to rebel authorities in *de facto* possession of given territory. I now have the honor to enclose herewith a translation of a decree of the Ministry of Finance and Public Credit, published in the *Diario Oficial* of August 23, 1929, No. 44, Vol. LV.⁹⁷ By this measure the decree of March 5, 1929, which declared invalid the payment of fiscal credits made to rebels, is revoked. Article 2 of the decree provides that payments which were made to offices of the Federal Government during the time of the rebellion, and which payments also were made to rebel elements, will not be returned to the payers. The purpose of the decree seems to be to place Mexican nationals on as favorable a footing in regard to this matter as are foreign persons under rules of international law.

I have [etc.]

HERSCHEL V. JOHNSON

812.008Sonora/1011

The Secretary of State to the Secretary of Labor (Davis)

WASHINGTON, November 9, 1929.

SIR: In further reply to your letter of September 12, 1929,⁹⁷ regarding the proposed deportation to Mexico of . . . I desire to inform you that this Department has received specific advices from Mexican official sources to the effect that . . . is wanted in Mexico for alleged revolutionary activities, and that, if he should enter Mexico, he will be apprehended and tried on charges of having been involved in the insurrection of March and April last. In view of this circumstance it is requested that . . . be not deported to Mexico at this time.

The file attached to your letter of September 12 is herewith returned.

Very truly yours,

For the Secretary of State:

NELSON TRUSLER JOHNSON

*Assistant Secretary*⁹⁷ Not printed.

CONVENTIONS BETWEEN THE UNITED STATES AND MEXICO EXTENDING DURATION OF SPECIAL AND GENERAL CLAIMS COMMISSIONS PROVIDED FOR IN CONVENTIONS OF 1923, SIGNED AUGUST 17 AND SEPTEMBER 2, 1929

411.12/926a

The Acting Secretary of State to the Mexican Chargé (Campos-Ortiz)

WASHINGTON, June 17, 1929.

SIR: By the terms of the Convention signed by the United States and Mexico on August 16, 1927,⁹⁹ extending the period for the adjudication of claims before the General Claims Commission provided for by the Convention concluded between the United States and Mexico on September 8, 1923,¹ the life of the Commission will expire on August 30, 1929.

By the terms of the Special Claims Convention, concluded between the two Governments on September 10, 1923,² the life of the Commission provided for in that Convention will expire August 17, 1929.

The necessity for extending the period for the operation of these commissions due to the present state of their work, of which a large part remains unfinished, will readily occur to your Government. I, therefore, have the honor to enclose drafts of two conventions³ extending for a further period not exceeding two years, in each case, the time allowed for the adjudication of the claims covered by the respective conventions.

I shall appreciate it if you will inform the Department at your earliest convenience whether these drafts are satisfactory to your Government and if so whether it will be prepared to sign the conventions at an early date.

Accept [etc.]

J. REUBEN CLARK, JR.

[Enclosure]

Draft Convention Between the United States and Mexico Extending Duration of the General Claims Commission Provided for in the Convention of September 8, 1923

WHEREAS a convention was signed on September 8, 1923, between the United States of America and the United Mexican States for the settlement and amicable adjustment of certain claims therein defined; and

⁹⁹ *Foreign Relations*, 1927, vol. III, p. 228.

¹ *Ibid.*, 1923, vol. II, p. 555.

² *Ibid.*, p. 560.

³ Draft convention extending duration of the Special Claims Commission, not printed. Except for designation of plenipotentiaries, signatures, and dates, this draft is identical with text of convention signed August 17, 1929, p. 451.

WHEREAS under Article VI of said convention the Commission constituted pursuant thereto was required to hear, examine and decide within three years from the date of its first meeting all the claims filed with it, except as provided in Article VII, and

WHEREAS by a convention concluded between the two Governments on August 16, 1927, the time for hearing, examining and deciding the said claims was extended for a period of two years; and

WHEREAS it now appears that the said Commission cannot hear, examine and decide such claims within the time limit thus fixed;

The President of the United States of America and the President of the United Mexican States are desirous that the time thus fixed for the duration of the said Commission should be further extended, and to this end have named as their respective plenipotentiaries, that is to say:

The President of the United States of America, Honorable Henry L. Stimson, Secretary of State of the United States; and

The President of the United Mexican States,

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

ARTICLE I

The High Contracting Parties agree that the term assigned by Article VI of the Convention of September 8, 1923, as extended by Article I of the Convention concluded between the two Governments on August 16, 1927, for the hearing, examination and decision of claims for loss or damage accruing prior to August 30, 1927, and filed with the Commission prior to said date, shall be, and the same is hereby extended for a further period not exceeding two years from August 30, 1929, the date on which pursuant to the provisions of the said Article I of the Convention of 1927, the functions of the said Commission would terminate in respect of such claims.

It is agreed that nothing contained in this Article shall in any wise alter or extend the time originally fixed in the said Convention of September 8, 1923, for the presentation of claims to the Commission, or confer upon the Commission any jurisdiction over any claim for loss or damage accruing subsequent to August 30, 1927.

ARTICLE II

The present Convention shall be ratified and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof the above-mentioned Plenipotentiaries have signed the same and affixed their respective seals.

Done in duplicate at the City of Washington, in the English and Spanish languages, this day of in the year one thousand nine hundred and twenty-nine.

411.12/926c : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, June 20, 1929—6 p. m.

402. 1. On June 17, 1929, the Department addressed a note to the Mexican Chargé d'Affaires in Washington transmitting two draft conventions providing for the extension of the lives, for a period not to exceed two years, of the General and Special Claims Commissions, respectively. This action is in accordance with the provisions of Senate Resolution 73 of May 25, 1929.⁴ Copy of the Department's note of June 17 to the Mexican Chargé d'Affaires with enclosures was sent to you by pouch leaving June 19. Department trusts that Mexican Government will shortly give its assent to proposed conventions, as the lives of General and Special Commissions expire respectively on August 30, and August 17 next. Department will appreciate any assistance you may be able to render in order to accelerate favorable decision and requests you to telegraph your views as to attitude of Mexican Government towards the proposal.

2. The resignation of Dr. Sindballe as Presiding Commissioner of both Commissions effective July 1, 1929, entails the necessity of the two Governments taking steps for the nomination of his successor. As you are aware, the two Governments failed to agree on a choice in 1927 and 1928, and thereupon in accordance with the penultimate sentence of Article I of the Conventions requested the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague to designate the presiding commissioner.⁵ The Department is hopeful that the two Governments may now agree on the name of the Third Commissioner thereby making unnecessary a choice by a party not associated with either government and is of the belief that a favorable effect on the public opinion of both countries would be created were it made known that the two Governments had been able so to agree on a suitable arbitrator. The Department would appreciate your informally sounding out the Mexican Government on this matter and if the proposal contained in this paragraph meets with the approval of the Mexican Government, the Department will be glad to submit names and to give attentive consideration to such names as the Mexican Government may care to put forward.

3. Under date of August 16, 1927, draft protocol, providing for continuance of work of the Joint Secretaries and of the respective Agencies of the two Governments pending the ratification by them of the Convention signed August 16, 1927, was submitted to the Mexi-

⁴ *Congressional Record*, 71st Cong., 1st sess., vol. 71, pt. 2, p. 1899.

⁵ See *Foreign Relations*, 1928, vol. III, pp. 337-340.

can Ambassador. Mexican Government declined to sign protocol. (See Department's telegrams 203 of August 30 and 206 of August 31, 1927.⁶) In order that there may be no interruption in the work of Secretariat and Agencies this Government trusts that the reasons which actuated the Mexican Government in withholding its approval to protocol of 1927 may no longer be compelling and that Mexican Government will be prepared to sign a similar protocol at the time the conventions for the extension of the commissions are signed. Please informally ascertain views of the Mexican Government on this point.

From July 23, 1927, until September 7, 1928, no sessions of the General Claims Commission were held. This inaction caused considerable displeasure to claimants of both countries and subjected both Governments to unfavorable criticism. The failure of the Commission to function was due in a large part to the delay in appointing a presiding commissioner and to the absence of arrangements for the continuous functioning of the Secretariat and Agencies. It is to be hoped, therefore, in order to obviate a similar hiatus in the Commission's activity, that the Mexican Government will shortly indicate its willingness to proceed in accordance with the suggestions contained in paragraphs numbered 1, 2 and 3 of this telegram. The Department will deeply appreciate it if you will bring this matter to the attention of the Mexican Government, emphasizing this Government's view that it is vitally important to the interests of both countries that the proposals advanced by the Department shall be satisfactorily disposed of as soon as possible.

STIMSON

411.12/931

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation]

No. 4124

WASHINGTON, July 15, 1929.

MR. SECRETARY: Reference is made to Your Excellency's note of June 17th enclosing drafts of two conventions having for object the extension, for a period of two years, of the time allowed for the adjudication of claims covered by the conventions between Mexico and the United States which were proclaimed on the 8th and 10th of September, 1923, respectively.

In reply I have the honor to inform Your Excellency that my Government agrees to the extension, for a period of two years, of the General Claims Commission, but considers that Article IX of the original General Claims Convention should be modified by removing therefrom the provision whereby it is established that the affected

⁶ Neither printed.

Government shall pay at once all property awards approved by the Commission.

The Mexican Government is prepared to discuss at any time the question of changing the text of Article IX with the understanding that the provision regarding immediate payment is to be eliminated.

I avail myself [etc.]

MANUEL C. TÉLLEZ

411.12/931

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, July 16, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of July 15, 1929, No. 4124 in which you inform me that your Government is in agreement with the Government of the United States to extend for a period of two years the life of the General Claims Commission, United States and Mexico, provided certain changes are made in Article 9 of the original General Claims Convention of September 8, 1923. I have the honor to inform you in reply that the Department trusts very shortly to be able to communicate to you definitely its views as to the proposal that Article 9 of the Convention be modified.

I take the liberty of reminding Your Excellency that in the Department's note of June 17, 1929, it was proposed that the lives of both the General and Special Claims Commissions be prolonged for a further period not exceeding two years but I note that Your Excellency's communication under acknowledgment does not refer to this Government's proposal with respect to the extension of the life of the Special Claims Commission. I should be grateful therefore if Your Excellency would advise me at your early convenience as to whether the Government of Mexico is disposed, in harmony with this Government's suggestion, to extend the life of the Special Claims Commission.

Accept [etc.]

For the Secretary of State:

J. P. COTTON

411.12/932a : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, July 19, 1929—2 p. m.

418. Department's No. 415, July 16, 6 p. m.⁷ Mexican Ambassador was orally informed by Under Secretary⁸ yesterday that Department did not consider that it could justifiably agree to modification of Gen-

⁷ Not printed.

⁸ Presumably Joseph P. Cotton, commissioned Under Secretary of State June 7, 1929, and entered upon his duties June 20, 1929, succeeding J. Reuben Clark, Jr., who retired June 19, 1929.

eral Claims Convention of September 8, 1923 as suggested by the Mexican Government, without the approval of the Senate. Ambassador was informed that Department entertained doubts as to whether the Senate would favorably consider such modification and that public discussion regarding modification at this time was considered unwise. The Ambassador contended that the Mexican Government would be unable to make immediate payments with respect to judgments of the Commission touching the value of property expropriated and that Mexican Government did not wish to make an undertaking which it could not fulfill. He stated that it was virtually impossible for the Mexican Government to restore the property taken in lieu of immediate compensation in cash as envisaged by Article 9 of the General Claims Convention. Tellez was reminded that it would probably be some time before the Commission could again function and that other obligations which have been contracted by the Mexican Government such as interest payments on Mexican Government bonds might not be met on dates stipulated; consequently while the Department is in sympathy with the principle actuating the Mexican Government's position, it does not share the Mexican Government's fears as to the effect of the language in the Claims Convention.

The Under Secretary informed the Ambassador, however, that with a view to giving all possible consideration to the Mexican Government's position he would communicate with Mr. Clark on the latter's arrival in Mexico, inasmuch as Mr. Clark is very familiar with matters relating to the Claims Commissions. As the Ambassador contends that the Mexican Government's desire to amend Article 9 is due principally to financial considerations, Department would be glad to have your comments as to relation between the question of "immediate" payments of awards covered by Article 9 and the general question of Mexican Government finances. (See second paragraph Department's telegram No. 415.) The Under Secretary made it clear to the Ambassador that there was practically no likelihood of the Department's acceding to the Mexican Government's request for modification.

STIMSON

411.12/936 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, July 26, 1929—2 p. m.

[Received 7:50 p. m.]

297. Answering Department's 418, July 19, 2 p. m. and confirming my telephone talk with the Under Secretary, Minister Estrada expresses a desire that we should make an en bloc settlement at once

therefore rendering unnecessary the extension of the claims conventions. We here feel that, however desirable that might be, it would probably be impracticable to conclude an en bloc settlement before August 17, the date of the expiration of the special claims convention. Mr. Estrada, while he wants to consult the agent for Mexico under the special claims convention, sees no reason why that should not be extended. He is however still worrying over the effect of article nine in the general claims convention. We think that possibly the best way out would be:

1. To extend both conventions without any change therein.
2. To proceed as rapidly as possible in an endeavor to negotiate an en bloc settlement.
3. To give the Mexican Government an assurance that for a definite period, say six months, the agent for themselves [*sic*] under the general claims convention would not present for hearing before the commission any land claims which might involve the operation of article nine.

We do not know how the foregoing would appeal to Estrada but we will take the matter up with him if you approve.

MORROW

411.12/936 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, July 29, 1929—5 p. m.

426. Your 297, July 26, 2 p. m. The Under Secretary proposed to the Mexican Ambassador orally today that the General and Special Claims Conventions be extended by ratifications exchanged forthwith as suggested in the Department's 402 of June 20, 6 p. m. and that the Department then undertake to request the Senate to authorize the deletion of the last paragraph of Article 9 of the Convention of September 8, 1923 (General Claims). The Ambassador expressed his personal opinion that this might meet the point of view of his Government.

Please take up at your earliest convenience with the Acting Minister for Foreign Affairs, with a view to expediting (1) extension of General and Special Claims Conventions (2) negotiations for an en bloc settlement and (3) acquiescence of Mexican Government to suggestion contained in first paragraph of this telegram, such acquiescence to be confirmed later in note in reply to this Government's undertaking to request approval of the Senate to deletion of last paragraph of Article 9. We understand that Mexican Ambassador is telegraphing to his Government today with reference to the foregoing.

STIMSON

411.12/938 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, August 3, 1929—noon.

[Received 3: 50 p. m.]

302. Department's 426, July 29, 5 p. m. We conferred with Minister of Foreign Affairs on July 31 with reference to the proposal made by the Under Secretary to the Mexican Ambassador. The Minister for Foreign Affairs advised us that he had received word by telephone from Ambassador Tellez and was suggesting to him :

1. That the Mexican Government saw no objection to the extension of the special claims convention, and

2. That his view was that they could not extend the general claims convention including paragraph 9 upon a simple understanding of the State Department to make the request of the Senate set out in your telegram. He stated however that he thought they could renew the agreement upon an exchange of letters or a protocol covering an interpretation or explanation of article 9. He told me that he would make a draft of such an interpretation and let us have it as soon as possible. We inquired of Foreign Office yesterday if the Minister had prepared this draft and were informed he had not done so. We hope however to receive it on Monday.

MORROW

411.12/936 : Telegram

The Acting Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, August 3, 1929—2 p. m.

428. Your 297, July 26, 2 p. m. and Department's 426, July 29, 5 p. m. American Agent has expressed to Department orally his conviction of importance that there should be no interruption in the work of Joint Secretariat and Agencies. Department therefore suggests that you endeavor to obtain from Mexican Government favorable answer to paragraph numbered 3 of Department's 402 June 20, 6 p. m. in addition to three points covered by Department's telegram 426.

COTTON

411.12/946 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, August 6, 1929—7 p. m.

[Received August 7—3: 36 a. m.]

306. Your 428, August 3, 2 p. m. Had conference with Estrada late afternoon of August 5th with following results:

1. Referring to paragraph 3, Department's 402,⁹ Minister Estrada stated yesterday that he was willing that the two agencies should

⁹ Ante, p. 436.

continue to prepare and submit memorials, briefs, etc., after the extension of the two conventions and pending the choice of a presiding commissioner. It was considered that this could be accomplished without entering into any formal protocol covering the matter and merely by instructions from the two Governments to their respective agents.

2. Estrada did not prepare draft of interpretative letter referred to in our 302, August 3. Matter accordingly taken up orally. After considerable discussion he agreed to the extension of the general claims convention upon conditions that Secretary Stimson should sign a letter, either prior to the signature of the extension of the convention or contemporaneous thereto, which should set out an understanding in regard to the payments called for under article 9 of the convention. The following draft letter incorporates the points which we understood Estrada desired to have inserted in the letter:

“In proceeding to a signature of the convention extending the life of the General Claims Commission, United States-Mexico, I am pleased to state that, appreciating the difficulties now existing in the finances of your Government and your hesitation to renew this convention because of the terms of payment set out in article 9 thereof, and understanding that your Government is taking steps which look to an early general readjustment of the entire financial situation of your Government, including an en bloc settlement of claims covered by the convention, it is understood that the two Governments will consult later, as occasion arises, as to the measures to be taken for the implementing of the provisions of said article 9 of the general claims convention with reference to the time and method of payments.”

Estrada has not yet seen the text of foregoing draft. Before finally closing the matter he will have to submit matter to the President. If the foregoing letter is satisfactory to the Department I will immediately take up text with Estrada. With reference to the value of article 9, a reading of the minutes of the Warren-Payne conference in 1923¹⁰ leads me to the belief that paragraph 2 of that article was considered by the American Commissioners as very important to American claimants and that paragraph 3 was considered necessary by the Mexican Commissioners in order to give Mexico the option of paying cash in lieu of specific restitution of property or rights which might prove politically embarrassing.

3. Referring to paragraph 2, Department's 402, I mentioned the appointment of a presiding commissioner. Estrada stated that it was the policy of his Government to have American questions adjusted by Americans. He referred to the provisions of the Havana convention of arbitration¹¹ (text not found in Embassy) providing

¹⁰ See *Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923* (Washington, Government Printing Office, 1925).

¹¹ General Treaty of Inter-American Arbitration, signed at Washington, January 5, 1929, vol. 1, p. 659.

for the choice of presiding commissioners. He stated he was prepared to submit immediately 21 names or double that number if we desired. He referred to the presumed feeling of the Department of State that commissioners chosen from Latin American countries would be favorable to Mexico rather than the United States and stated that, notwithstanding the identity of language and presumed common sympathy from a common heritage of Latin America, as a matter of fact there was little that Latin Americans could agree upon among themselves. I suggested that perhaps we might take some one who is already acting as presiding commissioner on some of the other commissions to which Mexico is a party.

4. In regard to point 2 in the Department's 426, I did not discuss again negotiations for an en bloc settlement. It will be noted that specific reference is made to such negotiations in the draft of letter suggested in paragraph 2 above. This matter can be taken up when the extending conventions have been signed.

MORROW

411.12/946 : Telegram *

The Acting Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, August 7, 1929—5 p. m.

435. Your 306, August 6, 7 p. m. Paragraph one satisfactory.

Paragraph two satisfactory.

Your form letter satisfactory excepting substitute for word "implementing" the words "carrying out". Submit text thus amended to Estrada.

Paragraph four satisfactory.

COTTON

411.12/951

Memorandum by the Under Secretary of State (Cotton) of a Telephone Conversation With Senator William E. Borah¹² Regarding Mexican Claims Convention, August 7, 1929

Senator Borah telephoned me to say that after talking the matter over with Senator Swanson¹³ he felt sure that there would be no trouble from the Foreign Relations Committee if I should give a note to Mexico construing Clause 9 of the General Claims Convention in such a way that Mexico could feel sure there would be no embarrassment by demands for immediate payments in cash if they would at

¹² Chairman of the Senate Foreign Relations Committee.

¹³ Claude A. Swanson, ranking Democratic member of the Foreign Relations Committee.

the same time execute an extension of the Claims Conventions for a couple of years.

This report followed a conversation which Mr. Lane¹⁴ and I had with Senator Borah yesterday on the subject in which we made clear to him that while the State Department was not expecting to ask him to share the responsibility for the action it contemplated taking, we were coming to him in advance and telling him of our proposed action so that he would not feel that such action as we saw fit to take was an attempt of an executive department to exercise power which it might be considered the legislative department had not granted. In this connection I pointed out to Senator Borah that the clause which we were construing was one which was not of immediate importance to the United States or the claimants as a method of getting money (in view of the present financial condition of Mexico) and that the gloss we are putting on it would operate reciprocally in the enforcement of Mexican claims against the United States.

At the time of our talk yesterday Senator Borah indicated that he thought there would be no objection from the Senate's point of view. His telephone call today was to confirm that and to state that he had taken the matter up with Senator Swanson and found that he held a similar view.

J. P. C[OTTON]

411.12/946 : Telegram

The Acting Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, August 8, 1929—6 p. m.

437. Department's No. 435, August 7, 5 p. m. With reference to paragraph three of your 306, August 6, 7 p. m. it is our feeling that until we know definitely whether we are able to reach an en bloc settlement with Mexico with respect to claims it would be inadvisable to negotiate with respect to the appointment of a presiding commissioner of the Claims Commissions.

Pending such time it would not seem necessary for us to decide whether or not we would agree to accept a Latin American as presiding commissioner. When the Mexican Ambassador called at the Department he proposed under instructions from his Government that the presiding commissioner be appointed in accordance with the provisions of the Pan American Convention of Arbitration. We informed Tellez at the time that we felt it would be advisable to defer making decision on this point until the Conventions were actually extended.

In the meantime we are making inquiries regarding . . . whom you mentioned to Lane over the telephone this morning.

COTTON

¹⁴ Arthur Bliss Lane, Chief of the Division of Mexican Affairs.

411.12/954 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, August 13, 1929—6 p. m.

[Received 8 p. m.]

310. Department's 440, August 13, 3 p. m.¹⁵ Saw Estrada again yesterday. He sees no objection to formula Department's 435, August 7, 5 p. m. and Embassy's August 6, 7 p. m. He has not however been able to see President who is out of the city. We will see Estrada again tomorrow and report.

MORROW

411.12/955 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, August 15, 1929—6 p. m.

[Received August 16—3:22 a. m.]

312. That the Department may be informed I have the honor to report as follows:

On Monday August 12 I saw Secretary Estrada and pointed out to him the desirability of concluding the conventions extending the two claims commissions before the present conventions expired. As I told you in my 307 of August 9th,¹⁵ President Portes Gil is out of the city. The Secretary again promised to consult the President as soon as he should return.

Not hearing from Estrada on Tuesday, August 13th, I again conferred with him on Wednesday, August 14th, at which time I once more urged the necessity for a prompt signature of the conventions extending the claims conventions. Estrada expressed then a view which he has several times voiced to the effect that the conventions would be extended and that the mere date of extending them was more or less immaterial. Upon returning from this interview Clark telephoned Lane advising him that Estrada had asked Tellez to raise three points concerning the extension of the special claims commission.

First, that he wished to have the extension of the special claims convention signed here in Mexico City.

Second, that he desired an informal understanding that the future sessions of the special claims commission should be held in Mexico City.

Third, an informal understanding that the presiding commissioner should be chosen in accordance with the Pan-American arbitration agreement of last January.

I understood Estrada's position to be that the signing of the extending convention was not conditioned upon our agreeing to these

¹⁵ Not printed.

three matters but that he desired to present them and if possible secure an understanding covering them.

Lane later in the same afternoon, August 14th, telephoned Clark that he had reached Tellez by telephone and that the Ambassador stated his instructions were to sign both the general and special extension conventions in Washington and that he had received a wire stating that his full powers were en route. Lane also stated that the Department had already advised Tellez as set out in the Department's 437 of August 8, 6 p. m., that the Department felt it would be advisable to defer making a decision as to a choice of the presiding commissioner until the conventions were actually extended and that the Undersecretary had told Tellez that the Undersecretary apprehended no difficulty on this score. Lane also stated that Tellez had not presented to the Department the matter of holding the sessions of the Special Claims Commission in Mexico City.

A memorandum was made of the foregoing conversation between Lane and Clark which Dawson¹⁷ took to Estrada later in the afternoon of the 14th and upon which Estrada commented as follows:

(1) That he had that afternoon telephoned the President at Tehuacan on the subject of the general claims convention and that it was possible something might be done about this before the departure of the Ambassador on Saturday.

(2) That in Estrada's instructions to Tellez he had mentioned only the signing of the general claims convention in Washington, it having always been Estrada's desire to have the special claims convention signed in Mexico. Full powers to sign the general claims convention had been forwarded to Tellez but he had no authorization to sign the special claims convention.

(3) That, in a long telegram sent by Estrada to Tellez some time ago, Tellez was instructed to take up among certain other subjects the question of holding the meetings of the Special Claims Commission in Mexico City. Estrada observed that in view of the length of the telegram perhaps Tellez had overlooked this point.

Today, August 15, at 4 p. m. Lane telephoned Clark that Lane had seen Tellez and had told Tellez that we were agreeable to holding the meetings of the special claims commission in Mexico City and that Tellez had brought up the further point with reference to the Special Claims Commission, namely, that the jurisdiction of the existing Special Claims Commission should be modified to accord with paragraph "a" of article 2 of the Pan American arbitration convention, signed in Washington last January.

Clark and Dawson saw Estrada at 5 p. m. today, August 15. They informed Estrada that the United States was willing to hold the meetings of the Special Claims Commission in Mexico City. After reading the report of a telephone conversation between Sierra and Tellez of

¹⁷ Allan Dawson, Third Secretary of Embassy.

today Estrada dictated in the presence of Clark and Dawson a telegram the purport of which is as follows :

Accepting the offer of the American Government to discuss the details of the convention relating to organization, functioning, etc., you, Tellez, are authorized herewith to sign the extension of the special claims convention.

It would thus appear that whatever Tellez's authority has heretofore been he now has authority to sign both conventions at Washington. Estrada did not mention and Clark and Dawson did not mention the point last raised by Tellez covering the modification of the jurisdiction of the special claims convention.

No answer has yet been received by Estrada from President Portes Gil regarding the letter (see our 306 of August 6 as modified by your 435, August 7) that is to accompany the signature of the extension of the general claims convention.

The President's office telephoned at 6 p. m. that the President, Portes Gil, will probably return to Mexico City on Saturday or Sunday.

MORROW

411.12/956 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, August 15, 1929—8 p. m.

443. Referring to telephone conversation with Mr. Clark yesterday following points were discussed this morning with Mexican Ambassador:

1. Tellez was informed that we are entirely agreeable that future sessions of Special Claims Commission be held in Mexico City.

2. Ambassador stated that his instructions were to the effect that Special Convention should be signed at Washington. He was advised that our information from Mexico City indicated that Mexican Government desired Convention to be signed in Mexico City but that we were willing to sign either or both Conventions at such place as the Mexican Government desired. The Ambassador was asked to ascertain definitely what the wishes of his Government are on this point.

3. Ambassador stated that his Government desired that the third Commissioner be appointed in accordance with the procedure provided for by the Treaty of Inter-American Arbitration. (Presumably Article 3 which provides as follows :

"Each Party shall nominate two arbitrators, of whom only one may be a national of said Party or selected from the persons whom said Party has designated as members of the Permanent Court of Arbitration at The Hague. The other member may be of any other American nationality. These arbitrators shall in turn select a fifth arbitrator who shall be the president of the court.

"Should the arbitrators be unable to reach an agreement among themselves for the selection of a fifth American arbitrator, or in lieu thereof, of another who is not, each Party shall designate a non-American member of the permanent Court of Arbitration at The Hague, and the two persons so designated shall select the fifth arbitrator, who may be of any nationality other than that of a Party to the dispute."

Tellez was advised that we would be glad to take this up in due course, but that we would like to have the Convention signed first. This matter is therefore still in abeyance.

4. Mexican Ambassador was informed that we would be glad to instruct our Agent with regard to the continuance of the work of the Agency in accordance with the suggestion made to you by Estrada. (See paragraph 1, your No. 306, August 6, 7 p. m.)

5. Tellez said that Mr. Estrada put great stress on reaching an agreement that the Special Commission should not discuss matters of "domestic jurisdiction", as provided by the Pan American Treaty of Arbitration. (Presumably he refers to that part of Article 2 of the General Treaty of Inter-American Arbitration signed in Washington, January 5, 1929, providing as follows:

"There are excepted from the stipulations of this treaty the following controversies: (a) Those which are within the domestic jurisdiction of any of the Parties to the dispute and are not controlled by international law".[.]

Tellez was informed that we considered that this was merely making it more difficult to sign the Convention prior to the date of its expiration and that this Government considered it highly important to extend the Conventions prior to expiration. He said that the Mexican Government did not appear to perceive any necessity of signing prior to August 18th.

The Ambassador said that his Government hoped that points covered in paragraphs one, three and five would be included in notes to be exchanged simultaneously with or prior to signing of Convention. He expressed the hope also that we would agree in this exchange of notes to list claims in accordance with the procedure obtaining under our Claims Convention with Great Britain.¹⁸

Tellez said that he would telephone Estrada today and would inform us as to the views of his Government. Tellez replied in answer to a question on the subject, that Special Claims Convention would be negotiated independently of General Claims Convention. Consequently the Special Claims Convention could be signed without waiting for the approval of the President of Mexico to the proposed note contained in paragraph two of your No. 306, August 6, 7 p. m. (See your No. 310, August 13, 6 p. m.)

¹⁸ See *Foreign Relations*, 1907, pt. 2, p. 1181; 1911, p. 266.

The Department has been and is doing everything possible to conclude Convention extending Special Claims Convention prior to its expiration.

The Department will communicate further with you on receipt of further advice from Mexican Ambassador. You may in the meantime desire to discuss matter further with Estrada with a view to reaching agreement.

STIMSON

411.12/957

The Mexican Ambassador (Télez) to the Secretary of State

[Translation]

WASHINGTON, August 16, 1929.

MR. SECRETARY: I have the honor to inform Your Excellency that as a result of negotiations which have been taking place between our offices (*Cancillerías*) I have received instructions to sign the convention concerning the extension of the duration of the Special Mexican American Claims [Commission] on the understanding that Your Excellency's Government is disposed to continue discussing in a spirit of good will, once the extending convention has been concluded, the following points intended to perfect the organization and facilitate the operation of the said Commission:

1. To adopt, for the election of the Presiding Commissioner, the procedure which is established by the general treaty of intra-American Arbitration concluded in Washington on January 3 [5], 1929, on the understanding that in case the said procedure should prove abortive there will be a return to the procedure established by the said convention which is being extended.

2. To stipulate that the Commission shall not have authority to take note of matters of internal jurisdiction of both countries, in terms similar to those agreed upon in the Pan American Arbitration Convention signed in Washington.

3. Preparation of lists of outstanding claims (*reclamaciones viables*), tending to eliminate those with no legal basis which have been presented, in accordance with the system adopted in the Claims Convention between England and the United States.

4. Suppression of oral petitions before the Commission, tending to facilitate and expedite the labor of the Commission.

5. The desirability of giving instructions to the respective Agents in order that they may put themselves in accord before-hand with regard to the date on which the claims whose nature demands special study must be submitted to the Commission.

6. To declare the City of Mexico as a permanent place of residence of the Commission.

I avail myself [etc.]

MANUEL C. TÉLEZ

411.12/958

Memorandum by the Chief of the Division of Mexican Affairs (Lane) of a Conversation With the Second Secretary of the Mexican Embassy (Padillo Nervo), August 16, 1929

Mr. Padillo Nervo called this afternoon at 3:30 and presented the Ambassador's note of August 16th in which the Ambassador states that he has received instructions to sign the Convention for the extension of the Special Claims Convention on the understanding that the United States Government is disposed to continue negotiating in a spirit of good will as soon as the extended Convention is concluded regarding six points contained in that note. Mr. Padillo Nervo inquired whether we would reply to this note prior to the signature of the Convention. I told Mr. Padillo Nervo that both the Secretary and the Under Secretary had left the City and that I had no authority to commit the Department. My personal opinion was, however, that there would be no objection to our agreeing to discuss the points raised. I pointed out that in Mr. Morrow's telegram No. 312 of August 15, 6 p. m. (penultimate paragraph on page 2) the following statement appears:

"I understood Estrada's position to be that the signing of the extending convention was not conditioned upon our agreeing to these three matters but that he desired to present them and if possible secure an understanding covering them."

I told Mr. Nervo that I had read this paragraph to Ambassador Tellez this morning and I allowed Mr. Nervo to read it. I said that the three matters referred to were:

1. Place of signing.
2. Place of future meetings.
3. Choice of presiding Commissioner.

Points 1 and 2 had already been taken care of: the Convention would be signed in Washington, tomorrow; I had orally assured Ambassador Tellez yesterday, and the Embassy in Mexico City had assured Mr. Estrada, that we were entirely agreeable that future meetings of the Special Commission should be held in Mexico City. With regard to the third point, we still felt that the matter of choice of presiding Commissioner should not be discussed until after the extending Convention was in effect. I said however that we were prepared to discuss this matter in good will and we trusted that a satisfactory arrangement might be arrived at.

I observed however that in the Ambassador's note, six points instead of three were brought up. Mr. Nervo confirmed Mr. Morrow's understanding of the Mexican Government's position by saying that Ambassador Tellez did not consider that the signature of the Con-

vention extending the Special Claims Commission was conditional on agreement on these six points.

A[RTHUR] B[LISS] L[ANE]

411.12/957

The Acting Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, August 17, 1929.

EXCELLENCY: In acknowledging Your Excellency's note of August 16, 1929, I take pleasure in informing you that subsequent to the signature of the convention extending the duration of the Special Claims Commission, United States and Mexico, this Government will be disposed, in a spirit of the utmost good will, to discuss with you such questions of procedure as may tend to perfect the organization and facilitate the operation of that Commission, in accordance with the terms of the Convention signed at Mexico City September 10, 1923.

With regard to paragraph numbered 6 of your note and in confirmation of previous conversations, I take pleasure in informing Your Excellency that this Government is entirely agreeable that the future meetings of the Special Claims Commission, United States and Mexico, shall be held in Mexico City.

Accept [etc.]

W. R. CASTLE, JR.

Treaty Series No. 802

*Convention Between the United States of America and Mexico,
Signed at Washington, August 17, 1929*¹⁹

WHEREAS a convention was signed on September 10, 1923, between the United States of America and the United Mexican States for the settlement and amicable adjustment of certain claims therein defined;²⁰ and

WHEREAS Article VII of said convention provided that the Commission constituted pursuant thereto should hear, examine and decide within five years from the date of its first meeting all the claims filed with it; and

WHEREAS it now appears that the said Commission can not hear, examine and decide such claims within the time limit thus fixed;

The President of the United States of America and the President of the United Mexican States are desirous that the time originally

¹⁹ In English and Spanish; Spanish text not printed. Ratified by the President, September 25, 1929, in pursuance of Senate resolution of May 25, 1929; ratified by Mexico, October 4, 1929; ratifications exchanged at Washington, October 29, 1929; proclaimed by the President, October 31, 1929.

²⁰ *Foreign Relations*, 1923, vol. II, p. 560.

fixed for the duration of the said Commission should be extended, and to this end have named as their respective plenipotentiaries, that is to say:

The President of the United States of America, Honorable William R. Castle, junior, Acting Secretary of State of the United States; and

The President of the United Mexican States, His Excellency Señor Don Manuel C. Téllez, Ambassador Extraordinary and Plenipotentiary of the United Mexican States at Washington;

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

ARTICLE I

The High Contracting Parties agree that the term assigned by Article VII of the Convention of September 10, 1923, for the hearing, examination and decision of claims for loss or damage accruing during the period from November 20, 1910 to May 31, 1920, inclusive, shall be and the same hereby is extended for a time not exceeding two years from August 17, 1929, the day when pursuant to the provisions of the said Article VII, the functions of the said Commission would terminate in respect of such claims.

It is agreed that nothing contained in this Article shall in any wise alter or extend the time originally fixed in the said Convention of September 10, 1923, for the presentation of claims to the Commission, or confer upon the Commission any jurisdiction over any claim for loss or damage accruing prior to November 20, 1910, or subsequent to May 31, 1920.

ARTICLE II

The present Convention shall be ratified and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof the above mentioned Plenipotentiaries have signed the same and affixed their respective seals.

Done in duplicate at the city of Washington, in the English and Spanish languages, this seventeenth day of August in the year one thousand nine hundred and twenty-nine.

W. R. CASTLE, JR. [SEAL]

MANUEL C. TÉLLEZ [SEAL]

411.12/971 : Telegram

The Secretary of State to the Chargé in Mexico (Johnson)

WASHINGTON, August 26, 1929—11 a. m.

455. Your 318, August 24. noon.²¹

1. This Government has no objection whatever to signing of Convention in Mexico City. The Under Secretary so informed the Mexican Ambassador on August 5. The Department, in accordance with this assurance was entirely prepared to have the Special Convention signed in Mexico City but as you will recall the Mexican Ambassador informed us that he had full powers to sign that Convention here. The Department made no proposal to Mexican Ambassador that the General Convention be signed in Washington but in view of the statement made by him to Lane that he had full powers to sign that Convention, (see Department's 453, August 23, 1 p. m.)²² we assumed that this was in accordance with the wishes of the Mexican Government. You may inform Estrada therefore that Department will send you full powers to sign Convention. It should be borne in mind that extending Convention must be signed on or prior to August 30, 1929.

2. With regard to note to be delivered to the Mexican Government simultaneously with or prior to signature of Convention Department proposes that you deliver note along lines of that transmitted in your 306²³ and modified by Department's 435,²⁴ stating that you are doing so under instructions of your Government. The Department will tomorrow deliver a note signed by the Secretary to the Mexican Ambassador in order that the Mexican Ambassador may telegraph the text thereof to his Government and certify as to its authenticity. Please telegraph immediately whether this meets with Estrada's approval.

STIMSON

411.12/971 : Telegram

The Secretary of State to the Chargé in Mexico (Johnson)

WASHINGTON, August 26, 1929—4 p. m.

456. Department's No. 455, August 26, 11 a. m. Mexican Ambassador called this morning.

²¹ Not printed; it reported that the Foreign Office desired convention for the extension of the general claims convention to be signed in Mexico City and wished note to be signed by Secretary Stimson and to be delivered at the time convention is signed. (411.12/971)

²² Not printed.

²³ *Ante*, p. 441.

²⁴ *Ante*, p. 443.

1. He delivered note dated August 23²⁵ submitting list of nineteen names as candidates for presiding commissioner of Special and General Claims Commissions. Of names submitted, five are Argentines, two Chileans, two Colombians, two Costa Ricans, one Dominican, two Guatemalans, two Panamans, two Paraguayans and one Salvadorean. Department is making inquiries regarding these candidates and is sending you a copy of Tellez's note.

2. Tellez said that there had been a misunderstanding about the place of signature of the Convention extending the duration of the General Claims Commission. We informed him that we were telegraphing you full powers to sign the Convention. We also told him that we would send him a note tomorrow signed by the Secretary in accordance with your 306 and our 435²⁶ and that we had instructed you to deliver a similar note to Estrada at the time of signing.

3. The Mexican Ambassador stated that he had been instructed by Mr. Estrada to request us to deliver a note similar to the note which we sent at the time the Convention was signed extending the life of the Special Claims Commission on August 17, 1929.²⁷ Tellez said that the Mexican Government would like to have us undertake to discuss rules of procedure. We explained to him that we were at all times ready to discuss rules of procedure provided this were in harmony with the respective claims conventions and that therefore to make such an undertaking in writing seemed to be immaterial. We said however that if the Ambassador would be gratified by our taking such action we would be glad to comply with his wishes. The Ambassador suggested that we incorporate the provisions of this note in the note which we propose to send him tomorrow. We objected to this, feeling that inasmuch as the note relating to Article 9 of the Claims Commission has been approved by Senator Borah,²⁸ Mr. Montes de Oca and Mr. Estrada, it would be unwise to change the contents thereof. We suggested that Tellez write us a note requesting that we undertake to discuss such rules of procedure as might be covered by the General Claims Convention. He assented to this.

STIMSON

²⁵ Not printed.

²⁶ *Ante*, pp. 441 and 443.

²⁷ Note of August 17, 1929, p. 451.

²⁸ See memorandum of telephone conversation with Senator Borah regarding Mexican Claims Convention, August 7, 1929, p. 443.

411.12/972

The Mexican Ambassador (Téllez) to the Secretary of State[Translation ²⁹]

WASHINGTON, August 26, 1929.

MR. SECRETARY: In the note which I sent to Your Excellency on the 16th of this month I had the honor to request through you the assent of the Government of the United States to continue discussing with the Government I represent, once the convention extending the duration of the special claims convention between Mexico and the United States is signed, the various points specified in my note tending to perfect and facilitate the operation of the Special Commission stipulated in the said conventions. Your Excellency, in a note dated the day immediately following, the 17th of August, 1929, expressed acquiescence in the request and stated that your Government would be disposed, in a spirit of the utmost good will, to discuss said points.

As the problems relative to the organization and operation of the General Claims Commission of our two countries are fundamentally similar to those of the Special [Claims] Commission, and in confirmation of that which the Under Secretary of State, Hon. J. P. Cotton, stated to me orally this morning, and under instructions which have been given to me in the premises, I have the honor to request, through Your Excellency, the assent of your Government to discuss with the Government of Mexico, with reference to the general claims convention, points 1 to 5 specified in my note of August 16, when the convention extending the duration of the said convention shall have been signed in the City of Mexico.

Accept [etc.]

MANUEL C. TÉLLEZ

411.12/975a

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, August 27, 1929.

EXCELLENCY: In proceeding to a signature of the convention extending the life of the General Claims Commission, United States and Mexico, I am pleased to state that, appreciating the difficulties now existing in the finances of your government and your hesitation to renew this convention because of the terms of payment set out in Article 9 thereof, and understanding that your Government is taking steps which look to an early general readjustment of the entire financial situation of your Government, including an en bloc settlement of claims covered by the convention, it is understood

²⁹ Translation supplied by the editor.

that the two Governments will consult later, as occasion arises, as to the measures to be taken for the carrying out of the provisions of said Article 9 of the General Claims Convention with reference to the time and method of payments.

Accept [etc.]

HENRY L. STIMSON

411.12/973 : Telegram

The Chargé in Mexico (Johnson) to the Secretary of State

MEXICO, August 27, 1929—1 p. m.

[Received 3:53 p. m.]

319. I was informed this morning by Sierra of the Foreign Office that Estrada has no objection to the procedure indicated in paragraph 2 of your 455, August 26, 11 a. m., for the delivery of the note which is to accompany the signature of the convention for the extension of the General Claims Commission. I shall telegraph as soon as I know the exact date on which the Foreign Office will arrange for the signature of the convention to take place.

JOHNSON

411.12/971 : Telegram

The Secretary of State to the Chargé in Mexico (Johnson)

WASHINGTON, August 28, 1929—11 a. m.

458. 1. Department's 455, August 26, 11 a. m. paragraph two. Note was delivered to Mexican Ambassador yesterday signed by the Secretary of State, text of which was identical to that transmitted in your 306³⁰ and modified by Department's 435.³¹

2. Department's 456, August 26, 4 p. m. paragraph three. Mexican Ambassador in note dated August 26 requests that this Government consent to discuss with the Mexican Government, as soon as Convention extending duration of General Claims Commission is signed, points numbered one to five with respect to General Commission as specified in Ambassador's note of August 16. (See Department's 445, August 16, 6 p. m.)³² Department proposes replying tomorrow [*sic*] to this note along the lines of the first paragraph of note of August 17, *mutatis mutandis*. (See Department's 446, August 17, 2 p. m.)³²

STIMSON

³⁰ *Ante*, p. 441.

³¹ *Ante*, p. 443.

³² Not printed.

411.12/972

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, August 28, 1929.

EXCELLENCY: In reply to Your Excellency's note of August 26, 1929, I take pleasure in informing you that subsequent to the signature of the Convention extending the duration of the General Claims Commission, United States and Mexico, this Government will be disposed, in a spirit of the utmost good will, to discuss with Your Excellency's Government such questions of procedure as may tend to perfect the organization and facilitate the operation of that Commission in accordance with the terms of the Convention signed at Washington September 8, 1923.

Accept [etc.]

HENRY L. STIMSON

411.12/974a : Telegram

The Secretary of State to the Chargé in Mexico (Johnson)

WASHINGTON, August 29, 1929—noon.

460. Department understands from your telephone conversations with Lane yesterday afternoon that Mexican Government is prepared to sign convention extending duration of General Claims Commission for two years provided the following clause is added to paragraph one of Article one of the draft Convention: "And that during such extended term the Commission shall also be bound to hear, examine and decide all claims for loss or damage accruing between September 8, 1923, and August 30, 1927, inclusive, and filed with the Commission not later than August 30, 1927."

The clause in question was eliminated from the Department's draft of the new convention on the ground that it is superfluous. As the first part of Article one of this convention makes provision for the extension of the term for the hearing, examination and decision of claims for loss or damage accruing prior to August 30, 1927, and filed with the Commission prior to that date it is obvious that this embraces the period "between September 8, 1923 and August 30, 1927" which is that covered by the last clause of Article one of the Convention of August 16, 1927.

As the Department understands from your telephone conversation that the omission of the last mentioned clause from the extending convention might jeopardize the approval of the Convention by the Mexican Senate, the Department authorizes you to sign the Convention as drafted with the inclusion of the clause under reference. This authorization is in confirmation of that given you by telephone last evening.

The Spanish and English texts of the draft of the Convention were compared by representatives of this Department and the Mexican Embassy on August 23. Department was informed at the time that the texts were satisfactory to the Mexican Government. It is to be sincerely trusted that this late change suggested by the Mexican Government will not prevent the consummation of the necessary preparations incident to the signature of the Convention on or before August 30.

STIMSON

411.12/975 : Telegram

The Chargé in Mexico (Johnson) to the Secretary of State

MEXICO, August 30, 1929—4 p.m.

[Received 10:22 p. m.]

322. 1. Department's 460 of August 29, noon. I submitted to the Foreign Office on August 26th the draft in English and Spanish of the convention extending the General Claims Commission which the Department sent me by air mail and which Mr. Lane informs me by telephone on August 28th had been accepted by the Mexican Ambassador in Washington. Sierra of the Foreign Office informed me on August 28th that this draft was acceptable to the Mexican Government except for article I which they desired to have in the same form as it appeared in the convention signed at Washington on August 16, 1927,^{32a} with only the necessary change of dates which the new convention under negotiation would necessarily involve. After discussing the matter by telephone with Mr. Lane, I gave to Mr. Sierra in the afternoon of August 28 the following English draft for article I of the proposed convention accompanied by the appropriate Spanish version:

"The high contracting parties agree that the term assigned by article 6 of the convention of September 8, 1923, as extended by article 1 of the convention concluded between the two Governments on August 16, 1927, for the hearing, examination and decision of claims for loss or damage accruing prior to September 8, 1923, shall be and the same hereby is further extended for a time not exceeding two years from August 30, 1929, the day when pursuant to the provisions of the said article 1 of the convention concluded between the two Governments on August 16, 1927, the functions of the said Commission would terminate in respect of such claims and that during such extended term the Commission shall also be bound to hear, examine and decide all claims for loss or damage accruing between September 8, 1923, and August 30, 1927, inclusive and filed with the Commission not later than August 30, 1927.

It is agreed that nothing contained in this article shall in any wise alter or extend the time originally fixed in the said convention of

^{32a} *Foreign Relations*, 1927, vol. III, p. 228.

September 8, 1923, for the presentation of claims to the Commission or confer upon the Commission any jurisdiction over any claim for loss or damage accruing subsequent to August 30, 1927."

Mr. Sierra stated that the article in this form was acceptable to his Government.

2. My 321 of August 29, 5 p. m.³³ Sierra informed me on August 29, that Estrada would sign the convention on Monday morning September 2nd at 11 o'clock. There could be no question of a misunderstanding on the part of the Foreign Office in regard to our desire that the signature of the new convention take place before the old convention expired as this had been made clear on repeated occasions by Ambassador Morrow and since his departure by me. I discussed this point with Mr. Lane by telephone this morning and subsequently talked to Sierra again explaining the views of the Department and asking if as a favor the Mexican Government would not agree to signature today. Sierra took the question up with Estrada and later informed me that the Acting Minister for Foreign Affairs had instructed him to say it would be impossible for the signature to take place today for "material reasons." Sierra then vaguely explained that Estrada had been unable to see the President and intimated that his full powers had not been signed. I communicated this intelligence to Mr. Lane by telephone. Unless otherwise instructed I shall therefore proceed to signature of the new convention on Monday morning, September 2nd at 11 o'clock.

JOHNSON

411.12/975: Telegram

The Secretary of State to the Chargé in Mexico (Johnson)

WASHINGTON, August 31, 1929—3 p. m.

462. Your 322, August 30, 4 p. m. The text of the English draft of article one of the convention to be signed on September 2 by you is satisfactory to the Department.

Please telegraph Department as soon as Convention is signed in order that suitable instructions may be sent to American agent and American secretary of the General Claims Commission. Department proposes to instruct American agent "to continue the filing with the General Claims Commission in accordance with existing rules and under the terms of the General Claims Convention of all documents having a bearing upon the claims presented by the United States on behalf of citizens of the United States against Mexico". Department also proposes to instruct American Secretary of Commission "to con-

³³ Not printed.

tinue to receive all documents filed by either Agency in accordance with existing rules under the terms of the General Claims Convention". Department presumes that Mexican Government will likewise instruct Mexican Agent and Secretary of the Commission in accordance with assurances given Embassy in paragraph one of your 306 of August 6, 7 p. m.

JOHNSON

Treaty Series No. 801

*Convention Between the United States of America and Mexico, Signed at Mexico City, September 2, 1929*³⁴

WHEREAS a convention was signed on September 8, 1923, between the United States of America and the United Mexican States for the settlement and amicable adjustment of certain claims therein defined;³⁵ and

WHEREAS under Article VI of said Convention the Commission constituted pursuant thereto is bound to hear, examine and decide within three years from the date of its first meeting all the claims filed with it, except as provided in Article VII; and

WHEREAS by a convention concluded between the two Governments on August 16, 1927,³⁶ the time for hearing, examining and deciding the said claims was extended for a period of two years; and

WHEREAS it now appears that the said Commission can not hear, examine and decide such claims within the time limit thus fixed;

The President of the United States of America and the President of the United Mexican States are desirous that the time thus fixed for the duration of the said Commission should be further extended, and to this end have named as their respective plenipotentiaries, that is to say:

The President of the United States of America, Herschel V. Johnson, Chargé d'Affaires ad interim of the United States of America in Mexico; and

The President of the United Mexican States, Señor Genaro Estrada, Under Secretary of State in charge of Foreign Affairs;

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

³⁴ In English and Spanish; Spanish text not printed. Ratified by the President, September 25, 1929, in pursuance of Senate resolution of May 25, 1929; ratified by Mexico, October 4, 1929; ratifications exchanged at Mexico City, October 10, 1929; proclaimed by the President, October 16, 1929.

³⁵ *Foreign Relations*, 1923, vol. II, p. 555.

³⁶ *Ibid.*, 1927, vol. III, p. 228.

ARTICLE I

The High Contracting Parties agree that the term assigned by Article VI of the convention of September 8, 1923, as extended by Article I of the convention concluded between the two Governments on August 16, 1927, for the hearing, examination and decision of claims for loss or damage accruing prior to September 8, 1923, shall be and the same hereby is further extended for a time not exceeding two years from August 30, 1929, the day when, pursuant to the provisions of the said Article I of the convention concluded between the two Governments on August 16, 1927, the functions of the said Commission would terminate in respect of such claims; and that during such extended term the Commission shall also be bound to hear, examine and decide all claims for loss or damage accruing between September 8, 1923, and August 30, 1927, inclusive, and filed with the Commission not later than August 30, 1927.

It is agreed that nothing contained in this Article shall in any wise alter or extend the time originally fixed in the said convention of September 8, 1923, for the presentation of claims to the Commission, or confer upon the Commission any jurisdiction over any claim for loss or damage accruing subsequent to August 30, 1927.

ARTICLE II

The Present Convention shall be ratified and the ratifications shall be exchanged in the City of Mexico as soon as possible.

In witness whereof the above mentioned Plenipotentiaries have signed the same and affixed their respective seals.

Done in duplicate in the City of Mexico in the English and Spanish languages, this second day of September in the year one thousand nine hundred and twenty nine.

HERSCHEL V. JOHNSON [SEAL]

G. ESTRADA [SEAL]

ATTITUDE OF THE DEPARTMENT OF STATE REGARDING AN EN BLOC SETTLEMENT OF THE CLAIMS OF AMERICAN CITIZENS AGAINST MEXICO

411.12/914a

*The Secretary of State to the Ambassador in Mexico (Morrow)*³⁷

No. 578

WASHINGTON, March 27, 1929.

SIR: Referring to the informal and general discussions between us regarding the possibility of reaching an agreement with the Govern-

³⁷ The Ambassador transmitted a copy of this instruction to Vernon Monroe, Secretary of the International Committee of Bankers on Mexico, in New York, in a covering letter dated July 10, 1929, not printed (411.12/930).

ment of Mexico as to a lump sum settlement of the various claims of American citizens against Mexico, I submit below comments and instructions for your guidance in connection with any negotiations which you may undertake with a view to reaching such an agreement.

As your reports³⁸ clearly indicate, there are very large obligations against Mexico running not only in favor of our government but in favor of other governments and also in favor of the nationals of our government and of other governments. There are also large obligations running in favor of Mexican nationals. Some of these obligations are liquidated and some are unliquidated.

These obligations are both express and implied. The express obligations are in part diplomatic arrangements and in part undertakings with private parties with reference both to financial operations, such as bonds and other treasury obligations, and to industrial or commercial obligations, such as concessions and contracts. The implied obligations arise out of contractual relations between Mexico and the nationals of this and other countries, and out of the tortious taking of property real or personal, or the infliction of injuries or wrongful death. These obligations, both the express and the implied, are frequently unliquidated as to their exact amounts.

Without entering into any extended discussion of Mexico's exact financial condition, it is sufficient to say that the preliminary examinations which have been made of Mexico's finances, the result of which examination is contained in the Sterrett-Davis report³⁹ and in your reports to the Department, disclose that the Mexican Government is not able to pay all of her debts now due and payable, and therefore is in a position analogous to that of an insolvent debtor under private law.

In regard to the Mexican obligations to the nationals of other countries, the primary interest of the United States is that there shall be no preferences made in favor of the nationals of other governments as against the nationals of the United States, either as to the kind of obligations recognized or paid, or as to the time or the manner of payment. Comity requires that Mexico shall treat all nations alike.

There was not long since a renewal of press reports, more or less current in November of last year, to the effect that the holders of Mexican bonds—approximately 20 per cent only of whom appear to be Americans—are again seeking with Mexico some kind of adjustment of their holdings. The Department is not advised as to the exact amount of Mexico's bonded obligations, but is under the impres-

³⁸ Not printed.

³⁹ *The Fiscal and Economic Condition of Mexico*, Report submitted to the International Committee of Bankers on Mexico by Joseph Edmund Sterrett [and] Joseph Stancliffe Davis, May 25, 1928.

sion that, including bonds the payment of which Mexico guarantees, the amount runs well toward five hundred millions of dollars.

It is obvious that an adjustment of these obligations might be made that would quite forestall any possibility of Mexico's meeting her other obligations, in any adequate way and in normal course.

With reference to these obligations and the adjustment thereof, I desire to discuss somewhat the matters and principles involved, and to call attention to certain precedents.

It seems that not only under the Anglo-American system of law, based on the old common law and equity of Great Britain, but also under the civil law system, secured creditors against an embarrassed or insolvent debtor are not always entitled to preferences over general creditors; indeed there are certain types of general creditors who enjoy preferences over the secured creditors. In the United States the law has perhaps been most fully developed in connection with receiverships of railways, and it appears to be the law that "mere contract debts of a railroad company, as for labor, materials and supplies, incurred prior to the appointment of a receiver, and unsecured by any lien upon the property, may, through the aid of a court of equity, be given priority over antecedent mortgages." (High, *Receivers*, Fourth Edition, Section 394a, p. 503)

It seems also to be a general rule with reference to railways that the receiver's expenses constitute a prior charge over mortgage indebtedness, as also charges for extending the railway line, damages incident to the operation of the railway, rentals, supplies, taxes, et cetera.

Among receivers' liabilities which must be met prior to the payment of the secured obligations are "damages for personal injuries sustained by passengers and employees, by reason of defects in the road or equipment, or the negligence or misconduct of the receiver's servants. Receivers as such have also been held liable for damage or loss of goods entrusted to them for carriage, for injuries inflicted upon travelers, for injuries to stock arising from a failure to fence the road, and, in general, for all damages for torts for which the corporation itself would be liable under similar circumstances." (1 Elliott on *Railroads*, Section 577, p. 842)

As already stated, the same general principles exist in the civil law. Domat in his work on *Civil Law*, (Volume 1 (Cushing Edition, 1850) p. 681) discusses the privileges of creditors and states that "the privilege of a creditor is the distinguishing right which the nature of his credit gives him, and which makes him to be preferred before other creditors, even those who are prior in time and who have mortgages." In the succeeding pages Domat discusses the giving of privileges to various individuals, and lists among them those who lend money for the purchase price of a property, or to preserve the rest, or to make improvements, and many others.

While it is well understood that principles of private law, as such, are not necessarily applicable or controlling in relations between states, particularly where the states concerned have different systems of law, yet it may be observed that where the fundamental principles of the private law of two states are in substantial harmony, it is considered not unreasonable in the intercourse between such states to apply such common principles to the relations between them in the absence of some applicable and controlling principle of international law.

In this view it would not be possible to regard as contrary to legal principles or to legal morals, a contention that even the secured bonds of a nation (to say nothing of those which, being unsecured, have behind them only the general credit of the country), should not be placed higher than national obligations of other sorts; indeed neither law nor legal morality would be violated if secured obligations were subordinated to certain of the general obligations of a state. For just as under private law claims for the protection, the betterment, the upkeep, and the general maintenance of an industrial or other enterprise—those things which enable the enterprise to continue as a “going concern”—must be met in preference to the secured creditors of the enterprise, for the reason, among others, that unless the enterprise is kept as a “going concern”, the securities held by the creditors would become valueless, so those claims against a government which result in its enrichment or in its general betterment as a government, its general maintenance and upkeep charges, its torts, whether against person or property, inflicted in the course of its carrying on as a “going concern,” should be given equal treatment with, if not indeed preference over, the holders of secured obligations, and for the same general reason that operates in the private law towards the industrial enterprise, namely, that unless the government be a prosperous “going concern”, its secured creditors may not confidently expect to realize upon their securities.

The Department does not, however, at this time wish to insist upon the application of this strict doctrine.

In this relation the rule must be brought into view that contract claims generally, including bond claims, hold in international law a position inferior to claims arising out of torts. The rule as to contract claims, as stated by Mr. Moore and supported by almost innumerable authorities, is:

“It is not usual for the government of the United States to interfere, except by its good offices, for the prosecution of claims founded on contracts with foreign governments.” (VI Moore’s *Digest*, p. 705)

A distinction is sometimes taken between those contractual obligations of a state which result in the creation of a bonded debt and other

contractual obligations of a state by which other liabilities are incurred. Westlake, in his work on *International Law*, (Volume I, Peace, Second Edition, pp. 332-334) comments as follows upon the principles involved:

"It appears to us that contracts with foreign governments ought not to be treated as forming a single class. We will repeat on that point language of which ten years' experience and reflection have confirmed to us the justice. 'A distinction seems to exist between the case of bonds forming part of a public loan on the one hand, and contracts such as those for concessions or the execution of works on the other hand. Interests of the latter kind usually enjoy regular protection by law, notwithstanding that a government is the defendant against whom relief is to be sought. There is a petition of right, a court of claims, or an appropriate administrative tribunal before which to go. The case is not essentially different from any other arising between man and man. The foreigner who has contracted with the government has not elected to place himself at its mercy, and the rule of equal treatment with nationals requires that he shall have the full benefit of the established procedure, while if in a rare instance there is no such established procedure, or it proves to be a mockery, the other rule of protecting subjects against a flagrant denial of justice also comes in. But public loans are contracted by acts of a legislative nature, and when their terms are afterwards modified to the disadvantage of the bondholders this is done by other acts of a legislative nature, which are not questionable by any proceeding in the country. If therefore the rule of equal treatment with nationals be looked to, the foreign bondholder has no case unless he is discriminated against. And if the rule of protecting subjects against a flagrant denial of justice be looked to, the reduction of interest or capital is always put on the ground of the inability of the country to pay more—a foreign government is scarcely able to determine whether or how far the plea is true—supposing it to be true, the provisions which all legislations contain for the relief of insolvent debtors prove that honest inability to pay is regarded as a title to consideration—and the holder of a bond enforceable only through the intervention of his government is trying, when he seeks that intervention, to exercise a different right from that of a person whose complaint is the gross defect of a remedial process which by general understanding ought to exist and be effective.' Hence we think that the assistance of their state ought not to be granted to the bondholders of public loans, unless the defaulting government presumes to treat its internal and external debts on terms of inequality unfavourable to the latter. But we see no reason for not granting, on other contracts with foreign governments, the same assistance which, on the general principles relating to the protection of subjects, is due to them when suffering the denial or failure of justice on their contracts with private persons.

"Hall however sees no difference in principle between what may be called the private contracts and the public loans of a government, though he admits a difference in practice relating to them. And both Lord Palmerston and Lord Salisbury maintained the view that the

right of intervention on behalf of bondholders is unquestionable, although its exercise ought to depend on the balance of considerations, the amount of loss in the particular instance being weighed against the general expediency of discountenancing hazardous loans. Continental writers uphold such intervention as an important exercise of the right of self-preservation applied to the national fortune."

The statement by Hall, to which Westlake made reference, reads in its full form as follows:

"There is one general point upon which a few words may be added. It has become a common habit of governments, especially in England, to make a distinction between complaints of persons who have lost money through default of a foreign state in paying the interest or capital of loans made to it and the complaints of persons who have suffered in other ways. In the latter case, if the complaint is thought to be well founded, it is regarded as a pure question of expediency on the facts of the particular case or of the importance of the occurrence whether the state shall interfere, and if it does interfere, whether it shall confine itself to diplomatic representations, or whether, upon refusal to give redress, it shall adopt measures of constraint falling short of war, or even resort to war itself. In the former case, on the other hand, governments are in the habit of refusing to take any steps in favour of the sufferers, partly because of the onerousness of the responsibility which a state would assume if it engaged as a general rule to recover money so lost, partly because loans to states are frequently, if not generally, made with very sufficient knowledge of the risks attendant on them, and partly because of the difficulty which a state may really have, whether from its own misconduct or otherwise, in meeting its obligations at the time when it makes default. Fundamentally however there is no difference in principle between wrongs inflicted by breach of a monetary agreement and other wrongs for which the state, as itself the wrong-doer, is immediately responsible. The difference which is made in practice is in no sense obligatory; and it is open to governments to consider each case by itself and to act as seems well to them on its merits." (*International Law*, Sixth Edition, pp. 275-276)

While it is not believed that the distinction made by Westlake is sound in logic or in morals, or indeed in recognized international law, yet it must be said that the customary conduct of nations has generally been more or less closely in accord with the principles announced by him.

A statement of this customary view, so far as Great Britain is concerned, was made by Lord Palmerston in his famous circular dated January 18, 1848. This reads:

"Her Majesty's Government had frequently had occasion to instruct her Majesty's representatives in various foreign States to make earnest and friendly, but not authoritative representations, in support of the unsatisfied claims of British subjects who are holders of public bonds and money securities of those States.

“As some misconception appears to exist in some of those States with regard to the just right of her Majesty’s Government to interfere authoritatively, if it should think fit to do so, in support of those claims, I have to inform you, as the representative of her Majesty in one of the States against which British subjects have such claims, that it is for the British Government entirely a question of discretion, and by no means a question of International Right, whether they should or should not make this matter the subject of diplomatic negotiation. If the question is to be considered simply in its bearing upon International Right, there can be no doubt whatever of the perfect right which the Government of every country possesses to take up, as a matter of diplomatic negotiation, any well-founded complaint which any of its subjects may prefer against the Government of another country, or any wrong which from such foreign Government those subjects may have sustained; and if the Government of one country is entitled to demand redress for any one individual among its subjects who may have a just but unsatisfied pecuniary claim upon the Government of another country, the right so to require redress cannot be diminished merely because the extent of the wrong is increased, and because instead of there being one individual claiming a comparatively small sum, there are a great number of individuals to whom a very large amount is due.

“It is therefore simply a question of discretion with the British Government whether this matter should or should not be taken up by diplomatic negotiation, and the decision of that question of discretion turns entirely upon British and domestic considerations.

“It has hitherto been thought by the successive Governments of Great Britain undesirable that British subjects should invest their capital in loans to foreign Governments instead of employing it in profitable undertakings at home; and with a view to discourage hazardous loans to foreign Governments, who may be either unable or unwilling to pay the stipulated interest thereupon, the British Government has hitherto thought it the best policy to abstain from taking up as International Questions the complaints made by British subjects against foreign Governments which have failed to make good their engagements in regard to such pecuniary transactions.

“For the British Government has considered that the losses of imprudent men, who have placed mistaken confidence in the good faith of foreign Governments, would prove a salutary warning to others, and would prevent any other foreign loans from being raised in Great Britain, except by Governments of known good faith and of ascertained solvency. But nevertheless, it might happen that the loss occasioned to British subjects by the nonpayment of interest upon loans made by them to foreign Governments might become so great that it would be too high a price for the nation to pay for such a warning as to the future, and in such a state of things it might become the duty of the British Government to make these matters the subject of diplomatic negotiation.

“In any conversation which you may hereafter hold with the . . . Ministers upon this subject, you will not fail to communicate to them the views which her Majesty’s Government entertain thereupon, as set forth in this despatch.” (Phillimore’s *International Law*, Vol. II, pp. 9, 10, 11)

To this time there have been such few occasions upon which the question was presented to the Department of State that a clear American rule upon the matter cannot be stated. In 1874 the Acting Secretary of State, Mr. Cadwalder, in instructing our Minister to Mexico regarding forced loans, said:

"It is not denied that, if the loan had been a voluntary one, the lenders should not have expected diplomatic interposition in their behalf, at least until they had exhausted all means of obtaining redress through the courts." (VI Moore's *Digest*, p. 678)

In 1884 Secretary Frelinghuysen stated:

"There are also cases, but not common enough to form a rule of action, where the bonds of one government being wholly or largely held by the citizens of another, upon default thereof, the government of which the creditors are citizens may endeavor, by diplomatic remonstrance or negotiation, to effect an international agreement between the two countries, prescribing the time and manner of adjustment." (VI Moore's *Digest*, p. 713)

In 1904 the United States presented a diplomatic claim with respect to certain bonds issued by the Government of Haiti to an American firm in payment for coal furnished by such firm, and the claim so presented was adjusted by the Government of Haiti. (*Foreign Relations*, 1904, p. 392)

A distinction has been drawn as to the position of bondholders who have nothing but the general credit of the country behind their bonds and those bondholders who have pledges on special securities, such as customs, et cetera, from which their obligations are to be served. This distinction sanctions interposition upon behalf of the holders of secured bonds when the debtor government converts the funds pledged to other uses, on the theory, it would seem, that by such conversion the debtor government commits a "tort" which justifies the government of the creditor to interpose in his behalf.

Under the Convention between the United States and Mexico of 1868⁴⁰ the Commissioners held that the diversion by public authority to other purposes of customs receipts pledged for the payment of a certain obligation (it does not appear that this was a bond obligation) "was a tortious act, which formed a basis for an award, without reference to the question whether the commissioners could allow claims founded in contract." (4 Moore's *Arbitrations*, p. 3465)

The Domestic Commission organized under the Act of March 3, 1849, to adjudicate claims of Americans against Mexico, in an opinion concurred in by all the Commission, made the following observation:

"Nor does the fact alleged in the memorial that the debts were 'to be paid out of the receipts of the custom-house' impose any obli-

⁴⁰ Claims convention, concluded July 4, 1868; Malloy, *Treaties, 1776-1909*, vol. 1, p. 1128.

gation upon Mexico, unless those receipts had been pledged by the government for the payment of these debts, which is not asserted in the memorial." (4 Moore's *Arbitrations*, p. 3458)

Just what constitutes such a pledge of revenues is a question of considerable difficulty. (Case of Peruvian Corporation Limited, Tribunal Arbitral Franco-Chilean; *Twycross v. Dreyfus* (1877) L.R. 5 Chancery 617)

The adjustments, in which the United States has taken part in the past, of the indebtedness of various countries to their creditors have been carried out upon the theory that no distinction, as to priorities in time or method of payment, existed between the bonded debt, debts which resulted from arbitral awards, and obligations which followed the settlement of individual claims against a government either through formal diplomatic means or under and through diplomatic good offices, or (seemingly) by private adjustment.

In the adjustment which took place in 1906-1907 between Santo Domingo and her creditors, no distinction was made between the various classes of obligations as above named. The Convention between the United States and the Dominican Republic signed February 8, 1907,⁴¹ recites that the Dominican Republic's debts amounted to over thirty millions of dollars. To discharge these thirty millions of dollars the Dominican Government arranged to issue bonds in the amount of twenty millions of dollars, which latter sum covered not only the said obligations, which amounted roughly to seventeen million dollars, but also a sum to be used for internal purposes in Santo Domingo. These various sorts of obligations, including the bonds, were by this adjustment reduced from their face value in amounts varying from 90 per cent to 10 per cent of such value. The bonds covered by the plan were cut down 50 per cent. An arbitral award was cut down 10 per cent. Some certificates and certain floating indebtedness were cut down 90 per cent. (See Confidential Executive Document No. 1, 59th Congress, First session; ⁴² Agreements covering loan made between Santo Domingo and Kuhn, Loeb and Company of September, 1906; ⁴³ Letter of September 12, 1906, of Señor Velazquez enclosing plan of adjustment; I Malloy's *Treaties*, p. 418)

During the months of 1909 the differences existing between the Government of Honduras and its bondholders had reached the point where that Government was under the necessity of making some arrangement regarding its debt. When this question first arose, information was conveyed to the Department of State that an American citizen had presented to the Government of Honduras a plan to place

⁴¹ *Foreign Relations*, 1907, pt. 1, p. 307.

⁴² *Report on the Debt of Santo Domingo, Submitted to the President of the United States by Jacob H. Hollander, Special Commissioner.*

⁴³ See *Foreign Relations*, 1907, pt. 1, p. 355.

Honduras under the same character of regime for the settlement of external and internal debts that had been applied to Santo Domingo, including the taking over by the Government of the United States of the customs of Honduras. As pointed out above, this plan embraced the non-preferential treatment of the creditors of Honduras.

The American Minister at San Salvador, Mr. Dodge, having communicated the foregoing information to the Department, Secretary Root, under date of January 26, 1909, advised the Minister as follows: "44

"The United States cannot, of course, take the position or subject itself to the imputation of directly or indirectly suggesting such a plan as you describe in your telegram received January 23d, but you would be safe in expressing to the Minister for Foreign Affairs your confidential opinion that any overture in that direction from the Government of Honduras would be considered by the Government of the United States with the strongest possible desire to be of service to Honduras and to contribute towards bringing about such a satisfactory result as has recently been attained in Santo Domingo."

On March 21, 1909, the American Minister at Honduras advised the Department of certain negotiations which had taken place between the foreign bondholders as unofficially represented by the British Minister to Central America and the Government of Honduras, and stated as follows:

"Before knowing exact terms of proposition, I notified Government of Honduras in writing, that while it was desirable Honduras should meet such obligation, my Government desired a settlement favorable to all interests which would also safeguard revenues and resources of Honduras; that an agreement which ignored or endangered the interests of all other creditors would be viewed by the Government of the United States as an unfriendly act."

The Minister transmitted with a despatch dated March 19, 1909, a copy of a communication which he made to the Minister of Foreign Affairs of Honduras, in which communication the Minister stated:

"I feel it my duty, however, to formally notify Your Excellency's Government that any arrangement which may ignore or endanger the interests of all other creditors would be viewed by my Government with profound regret and be considered as an act inconsistent with the friendly relations so happily existing between the two countries."

Under date of December 21, 1909, Mr. Jennings of Stetson, Jennings and Russell, attorneys for the American bankers, announced that an agreement had been reached between the bankers and the Government of Honduras which provided for the issue of bonds

"None of the following quoted correspondence relating to Honduras is printed in *Foreign Relations*; but see undated memorandum entitled "Proposed adjustment of the debt of Honduras by the United States," *Foreign Relations, 1912*, p. 549.

which was to cover outstanding foreign bonds and debts, and the settlement of claims which had been made by individuals against the Government of Honduras.

Loan agreements were actually signed with the bankers in February of 1911.⁴⁵ These agreements, however, were not finally carried out.

In 1912 the Government of Nicaragua after a considerable preliminary negotiation made an arrangement with American bankers for the adjustment of the obligations of that country.⁴⁶ This arrangement, like the arrangement with Santo Domingo, provided for the service and payment of bonds, for the payment of awards made by the Nicaraguan (domestic) Commission, and for the adjustment of other claims (particularly German and English) which were the subject of adjustment between the representatives of Great Britain and Germany and the Nicaraguan authorities. From the records of the Department it would appear that no one class of these claims enjoyed a preference over any other class.

The settlement by Haiti of her obligations through the issuance of the forty million dollar gold loan, which was authorized by the Haitian Decree of June 26, 1922,⁴⁷ covered not only the bonded indebtedness but also arbitral awards and compromises of claims, all on a non-preferred basis.

As will be seen, in each of the foregoing adjustments the cardinal principle has been a non-preference of any class of creditors over any other class of creditors. An equally basic principle has been that the creditors of no one nation should receive a preference over the creditors of other nations. The influence of this government has always been directed and exercised to this end.

In view of the foregoing principles, the precedents set out, and the practice of this Government whenever it has had opportunity to exercise a suggestive or directing course, you will, whenever the question shall arise in connection with the creditors of Mexico, frame your representations in accordance with those same principles, precedents, and practices.

The Department takes this opportunity to reiterate the views expressed in its telegram to you of November second last,⁴⁸ and to direct that if and when the occasion shall arise you will in your discretion make known the views set out in this instruction and in that telegram to the proper officials of the Mexican Government, and will say to that Government that the United States must ask and will expect that all

⁴⁵ See *ibid.*, pp. 562 ff.

⁴⁶ See *ibid.*, pp. 1071 ff.; also Department of State, Latin American Series No. 6: *The United States and Nicaragua, a Survey of the Relations from 1909 to 1932* (Washington, Government Printing Office, 1932), pp. 17 ff.

⁴⁷ *Foreign Relations, 1922*, vol. II, p. 500.

⁴⁸ *Ibid.*, 1928, vol. III, p. 321.

American creditors as among themselves will be treated on an equivalent basis so far as preferences and priorities are concerned, and that American creditors generally will be placed in a position as to preference and priority which shall not be inferior to the position given to the creditors of any other nation.

Should any question arise as to the preferences or priorities, if any, which are to be given to Mexican bonds for the service of which specific Mexican revenues have been designated or pledged, you will consult the Department for its further direction. You will, however, observe from what has already been said that under the custom of nations and the theory that a bondholder deprived of revenues allocated to the service of his bond has suffered a tort, such bondholders can as to their claims hardly be placed higher than other claimants who have been tortiously deprived of their property or property rights; *a fortiori*, bondholders having no such allocations cannot be placed so high.

But, as already stated, the Department does not now deem it necessary to insist, as against Mexican bondholders (the bulk of whom are not American citizens) upon the strict preferences and priorities sanctioned by the custom of nations in favor of claims arising out of other than bond transactions, though in your representations to the Mexican Government you should not commit your Government to an abandonment of such preferences and priorities should the course followed by the bondholders make it necessary to invoke such in order adequately to protect American claimants.

I am [etc.]

FRANK B. KELLOGG

812.51/1549

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 2104-A

MEXICO, December 31, 1929.

[Received January 9, 1930.]

SIR: I have the honor to refer to the Department's instruction No. 1737 [578], of March 27, 1929, laying down certain principles and pointing out certain precedents for my guidance in connection with such steps as the Mexican Government may take to reach an agreement or agreements with any or all classes of its creditors.

No occasion has as yet arisen to make any formal or informal official representation to the Mexican Government, in pursuance of the Department's instructions, but, in unofficial and personal conversations with various officials of the Mexican Government, I have consistently urged for more than two years such financial measures as would properly recognize and protect the rights of all creditors as

their interests and priorities might appear and also help to reestablish the financial stability and credit of the Mexican Government itself.

I have [etc.]

DWIGHT W. MORROW

RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE
OVER THE RIO GRANDE BOUNDARY ⁴⁹

711.12155/343

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation]

No. 766

WASHINGTON, February 6, 1929.

MR. SECRETARY: I have the honor to inform Your Excellency that on December 28th last, Engineer Gustavo P. Serrano, a Mexican Boundary Commissioner, transmitted a copy of report No. 111 of the International Boundary Commission ⁵⁰ to the Department of Foreign Affairs.

After making a study of the report referred to, the Department of Foreign Affairs advised the Mexican Commission that it did not concur in certain ideas expressed in the report, although it approved the other conclusions and recommendations contained therein.

On instructions from my Government and for any appropriate purposes, I beg to indicate below to Your Excellency the reservations and exceptions with which the Department of Foreign Affairs of my country approved the report mentioned.

In paragraph I of report No. 111, entitled General Exposition, it is said that the sections of the Commission met in joint session to draw up a preliminary report regarding the "stabilization of the dividing line and the rectification of the Rio Bravo etc. etc." Upon reviewing the antecedents of this matter it will be found that although the Government of the United States did, on one occasion, propose that the problem of the "stabilization of the dividing line" be studied together with the project for safeguards, this proposal has never been accepted by the Government of Mexico, which only agreed to study the problem from the technical point of view and to decide it by means of a convention concluded for that purpose; the Commission, accordingly, was to be limited to making a study of the engineering and construction problems pertinent to the protection against floods of the lands on

⁴⁹ For previous correspondence, see *Foreign Relations*, 1927, vol. III, pp. 232 ff.

⁵⁰ Minute No. 111, International Boundary Commission, United States and Mexico, December 21, 1928: action recommending engineering feasibility of preliminary plan for stabilization of boundary and rectification Rio Grande, El Paso and Juarez valleys. A copy of Minute No. 111 is in the files of the Department of State, filed under 711.12155/334.

either side of the river bank, without including problems of an international character.

In paragraph II of the Report, referring to the experience of both Governments respecting the preservation of the dividing line, it is said that "present conditions on the River create uncertainty in land titles and property rights."

The Department of Foreign Affairs does not consider this statement correct, inasmuch as the Treaties and Conventions now in force and the labors of the International Boundary Commission exactly determine the conditions in which property rights and titles of lands separated by changes in the River must remain.

At the conclusion of paragraph IV, the desire of the Commission to succeed in "stabilizing the dividing line" is again mentioned, which was also objected to, for the reasons expressed above.

In requesting Your Excellency to be kind enough to order that note be taken of the conditions and reservations with which the Department of Foreign Affairs of Mexico approved Report No. 111 of the International Boundary Commission, I am [etc.]

MANUEL C. TÉLLEZ

711.12155/343

The Secretary of State to the Mexican Ambassador (Télléz)

WASHINGTON, May 13, 1929.

EXCELLENCY: I have the honor to refer to Your Excellency's note No. 766, of February 6, 1929, stating that your Government has approved, with certain reservations and exceptions, Minute No. 111, of December 21, 1928, of the International Boundary Commission, United States and Mexico, in relation to the proposed stabilization of the boundary and the rectification of the Rio Grande in the vicinity of Ciudad Juarez, Mexico, and El Paso, Texas.

You say in this connection that your Government has never agreed to a joint study of the "stabilization of the boundary line and the rectification of the Rio Bravo, etc. etc.," as would appear from Paragraph I of Minute No. 111, but merely agreed to study the problem from a technical point of view and to decide it by means of a convention concluded for that purpose and that, accordingly, the Commission was to be limited to making a study of the engineering and construction problems pertinent to the protection against floods on either side of the river, without including problems of an international character. You also refer to Paragraph II of Minute No. 111, stating that "present conditions on the river create uncertainty in land titles and property rights", and that your Government does not consider the statement to be correct, inasmuch as the treaties and conventions now in force and the labors of the International Boundary

Commission exactly determine the conditions in which property rights and titles of lands separated by changes in the river must remain.

Respecting the latter observation, I have the honor to inform Your Excellency that the American Commissioner on the International Boundary Commission points out in a recent communication to the Department that your Government appears to have in mind national title and national sovereignty over certain lands, rather than private and individual titles. Commenting further on this particular matter, the Commissioner adds:

“The idea intended to be conveyed in the phrasing used in Minute No. 111 referred to the confusion and contentions existing over the private rights and claims of nationals of each country, and the difficulties that exist in the adjustment of such private claims following the application of the treaty provisions by the Boundary Commission. The existing treaties which have been in effect many years were negotiated and finally accepted on the basis of conditions that then existed, rather than those that now confront the two countries due to the improvements on properties adjoining the river, which is the boundary line. The lands abutting to the meandering river, previously largely unsettled and unimproved, have now taken on a status of high development and settlement which calls for more stabilized conditions than the previous and existing treaties recognize. In other words, there is demand from the individual land owners and communities that artificial rectification of the channel be agreed upon which would prevent the meanderings of the river.”

With reference to the other question raised in Your Excellency's note, concerning the stabilization of the boundary line in the vicinity of El Paso, I have the honor to inform you that it will be entirely agreeable to this Government to have the Commission proceed with its studies of all the conditions surrounding the proposed engineering plan, the principal aim of which is to prevent further disastrous floods in the vicinity of Ciudad Juarez and El Paso and to provide a river channel and boundary line in such location that all lands to the North will pertain to the United States, and all lands to the South pertain to Mexico. With this end in view, I have the honor to invite Your Excellency's attention to the desirability of Your Government's authorizing the Mexican Boundary Commissioner to proceed with the American Commissioner in such activities of the Commission as will result in the preparation of a joint report and a suggested draft agreement or convention for the consideration of the two Governments, covering the entire situation of river rectification, boundary stabilization and disposition of detached areas, contemplated by the proposed engineering plan.

Accept [etc.]

HENRY L. STIMSON

711.12155/358

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation]

No. 3346

WASHINGTON, May 31, 1929.

MR. SECRETARY: By means of reports of a public character, my Government has learned that that of Your Excellency has negotiated the acquisition of a plot of ground located in the zone known by the name of "El Chamizal" in El Paso, Texas, for the purpose of constructing Federal public buildings thereon, which zone, as Your Excellency knows, was adjudged to Mexico by an arbitral decision in 1911.⁵¹

In view of this, on instructions which I have received to that effect, I wish in the name of my Government to declare to Your Excellency its dissent from that acquisition, and here to leave clearly on record that the Government of Mexico will not honor any change in the present status of the matter on account of the said acquisition and that, likewise, it reserves to itself every right belonging to its nationals, whether they be individuals or interests, as regards trespassing on the real property which is the subject of this note.

Please accept [etc.]

MANUEL C. TÉLLEZ

711.12151A/171

The Mexican Ambassador (Téllez) to the Secretary of State[Translation⁵²]

WASHINGTON, October 12, 1929.

MR. SECRETARY: AS YOUR Excellency knows, the Mexican and American members of the International Boundary Commission met at Mexico City, August 21 last, to take up the matter of the rectification of the bed of the Rio Grande in the Juárez Valley, a matter the solution of which is of particular interest to the Government of Your Excellency.

At the said meeting, the United States Commissioner, Engineer L. M. Lawson, asked the Mexican Commissioner, Engineer Gustavo P. Serrano, if the Mexican Government would be disposed to consider the emergency works which it is necessary to make in the Juárez Valley to prevent possible floods in that region. The Mexican Commissioner answered that the Government of Mexico was most willing to discuss the matter, provided that steps were taken immediately to eliminate the bancos pending in the said Juárez Valley. Engineer Serrano once more explained the viewpoint of the Govern-

⁵¹ Award dated June 15, 1911, *Foreign Relations*, 1911, pp. 573 ff. See also *ibid.*, 1925, vol. II, pp. 554 ff.

⁵² File translation revised.

ment of Mexico in not making an agreement regarding the rectification of the bed of the Rio Grande until all the cases of bancos upon which the International Boundary Commission had not yet expressed an opinion should be settled, in conformity with the respective treaties. Commissioner Lawson stated that he lacked instructions from his Government to proceed to the elimination of the bancos, in view of which fact he suggested that the meeting be adjourned, to be resumed later, when both Commissioners had had an opportunity to receive instructions from their Governments. The meeting was adjourned as Mr. Lawson suggested.

The Government of Mexico has given all the attention which it merits to the technical problem of freeing both banks of the Rio Grande, in the Juárez Valley, from the damages which may be caused by floods in the river, designating for this purpose Mexican engineers to study the question in cooperation with American engineers, and instructing the Mexican Section of the International Boundary Commission to prepare, with the American Section, the bases of an international convention putting the technical project into practice. But, for reasons based upon the proper respect for existing treaties, the Government of Mexico, as Mr. Serrano explained, holds, as the sole condition, that, before entering upon negotiations with respect to new territorial changes, decision be made, in conformity with the said treaties, concerning pending cases occasioned by natural changes in the course of the Rio Grande.

The attention of the Government of Mexico has been called to the position of Commissioner Lawson, in refusing to proceed with pending banco cases, as is stipulated in the treaties. In this regard, I beg to quote below a paragraph from note No. 1319 which, under date of June 14, 1926,⁵³ was addressed to the Department of Foreign Affairs by the Embassy of the United States in Mexico:

“My government, however, holds itself in readiness to entertain any purports [*proposals*] which your Excellency's Government may decide to make looking towards a settlement of the other issues involved. In this connection, I would ask if Your Excellency's Government would not agree to approve Minute No. 61. If so, my government will instruct its Commission to proceed to dispose of pending banco cases.”⁵⁴

The Department of Foreign Affairs replied to the foregoing, under date of July 10 of the same year, by note No. 8959,⁵⁵ in the following terms:

“However, since maps of the presumptive bancos in the Valley of El Paso have been completed and presented to the International

⁵³ Not printed; but see telegram No. 197, June 12, 1926, 4 p. m., to the Ambassador in Mexico, *Foreign Relations*, 1926, vol. II, p. 708.

⁵⁴ Above paragraph in English in the original.

⁵⁵ *Foreign Relations*, 1926, vol. II, p. 709.

Boundary Commission, I take pleasure in stating that my Government is disposed to carry out the recommendations of said Minute No. 61, counting on the promise of Your Excellency's Government contained in the note under acknowledgement, to discuss the elimination of the bancos mentioned, thus ending the delay which the United States has continued with regard to this matter since 1911."

My Government, accordingly, agreed to carry out the recommendations contained in Minute No. 61, counting on the promise, clearly expressed in the note from the American Embassy mentioned above, to discuss the elimination of the bancos.

The viewpoint of the Government of Mexico with regard to this matter has been repeatedly explained by the Mexican Commissioner on the International Boundary Commission, and was likewise set forth in note No. 3963 of July 3 last which this Embassy sent to the Department of State in the distinguished charge of Your Excellency.⁵⁶

Complying with special instructions which I have received from my Government and, in view of the foregoing as well as of the exposition of the matter made in note No. 3963 which I have just referred to, I request Your Excellency to give instructions to the American Commissioner immediately to proceed with the study and settlement of pending banco cases, in conformity with existing treaties and as offered in the above-mentioned note No. 1319 which the Embassy of the United States addressed to the Government of Mexico in June, 1926.

Awaiting Your Excellency's reply [etc.]

MANUEL C. TÉLLEZ

711.12151A/171

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, October 23, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of October 12, 1929, in which you request that the American Commissioner on the International Boundary Commission, United States and Mexico, proceed with the study and settlement of pending banco cases in the El Paso and Juarez valleys. I also have received your note No. 5532, of the eleventh instant,⁵⁶ with reference to this same matter.

In reply I have the honor to refer to your call at the Department on the fifteenth instant when, during the course of a conversation with Mr. Cotton, you stated that your Government would be willing to proceed with the elimination of bancos and river rectification simultaneously. You will recall that Mr. Cotton⁵⁷ then stated that the

⁵⁶ Not printed.

⁵⁷ Joseph P. Cotton, Under Secretary of State.

American Commissioner on the International Boundary Commission would be promptly requested to proceed on that basis.

I now take pleasure in informing Your Excellency that the American Commissioner is today being requested to proceed with the Mexican Commissioner in carrying on simultaneously the preliminary engineering and other work involved in the proposed elimination of bancos in the El Paso and Juarez Valleys and the preparation of a joint report and a suggested draft agreement or convention covering the subject of river rectification and boundary stabilization between El Paso and the Box Canyon below Fort Quitman.

Accordingly, I have the honor to request that you be good enough to take such steps as you may deem necessary to the end that corresponding directions be issued to the Mexican Commissioner.

Accept [etc.]

For the Secretary of State:
J. P. COTTON

711.12155/358

The Secretary of State to the Mexican Ambassador (Télez)

WASHINGTON, January 7, 1930.

MY DEAR MR. AMBASSADOR: Referring to a telephone conversation on the fourth instant between a member of your staff and an officer of this Department, with reference to your note of May 31, 1929, I desire to inform you that this Government has determined to hold the matter of selecting a site for a federal building in El Paso in abeyance for the time being.

I am [etc.]

J. P. COTTON

GOOD OFFICES OF AMBASSADOR MORROW IN FACILITATING NEGOTIATIONS BETWEEN THE MEXICAN GOVERNMENT AND REPRESENTATIVES OF THE ROMAN CATHOLIC CHURCH⁵⁸

812.404/1012

The Chief of the Division of Mexican Affairs (Lane) to the Secretary of State

[WASHINGTON,] June 22, 1929.

MR. SECRETARY: Mr. Morrow telephoned at 5:15 yesterday evening to the effect that the religious situation had been settled, and that the statements of President Portes Gil and Archbishop Ruiz⁵⁹ had been or were about to be given to the press for publication in the newspapers of June 22nd. Mr. Morrow asked me to communicate the foregoing to yourself, Father Burke⁶⁰ and Mr. Montavon.⁶¹ I

⁵⁸ Continued from *Foreign Relations*, 1928, vol. III, pp. 326-335.

⁵⁹ Leopoldo Ruiz, the senior prelate of the Mexican Church.

⁶⁰ John J. Burke, General Secretary of the National Catholic Welfare Conference.

⁶¹ William F. Montavon, Legal Adviser of the National Catholic Welfare Conference.

was unable to reach you at your hotel by telephone, but I was able to get in touch with Mr. Schoenfeld, who I understand succeeded in conveying Mr. Morrow's message to you.

I informed Mr. Morrow of the proposed statement to be given out by the President in case he were asked for comment on the settlement. Mr. Morrow said that he thought it would have a very good effect and would be highly appreciated in Mexico.

A[RTHUR] B[LISS] L[ANE]

812.404/1012

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, June 22, 1929.

MY DEAR DWIGHT: The news from you by telephone last night and from the press this morning that the Church in Mexico and the Mexican Government have reached an adjustment of the difficulties which have for three years threatened real peace and stability in Mexico, have given profound satisfaction both to the President and to myself. Having had considerable experience with a not essentially dissimilar situation, at least in its potentialities for trouble, I can appreciate the skill, patience and wisdom which you have brought to bear upon this matter. I am convinced from what I know of the situation that without the assistance you have rendered the adjustment could not and would not have been made, at least for some time to come.

I offer you for the President and for myself sincerest congratulations. We are both looking forward with confidence to your continued presence and work in Mexico for the adjustment of the remaining differences which exist between our two governments. The way in which you have brought to the two governments the present friendly good will from a condition of near hostility, is a high achievement in the history of our diplomacy.

With cordial regards, I am [etc.]

HENRY L. STIMSON

812.404/1026

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, July 2, 1929.

[Received July 8.]

MY DEAR MR. SECRETARY: I thank you very much for your generous letter of June 22, 1929. We all here feel a deep satisfaction that the religious controversy has been adjusted.

I would appreciate it if you would express to the President my thanks for his message. I doubt very much whether it would have

been possible to have made any adjustment of the religious question at this time if the Mexican Government had not succeeded in putting down the revolutionary outbreak which began on March 3rd.⁶² In one sense, therefore, the prompt and decisive action of the President and the State Department at the time of that crisis was an important element in the adjustment of the religious question. For this I am grateful not only to the President but to the Department.

With cordial regards, believe me [etc.] DWIGHT W. MORROW

[In his memorandum of a conversation with the Mexican Ambassador, May 30, 1929, the Chief of the Division of Mexican Affairs pointed out "that Mr. Morrow had acted in this religious question purely in a private capacity and that if any officials of the Department of State had transmitted messages on the subject, they were only acting as the personal agents of Mr. Morrow and not as officials of the Department of State. Mr. Téllez said that he understood this and said that he realized Mr. Morrow had done a great deal to modify ex-President Calles' point of view with regard to the religious question in general." (812.404/9741~~6~~)]

⁶² See pp. 336 ff.

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES TO AMERICAN CITIZENS AND PROTÉGÉS IN THE FRENCH ZONE IN MOROCCO¹

881.844/1

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 271

TANGIER, February 18, 1928.

[Received March 14.]

SIR: I have the honor to enclose herewith, in the French text and in English translation, copy of a Dahir dated May 28th, 1927,² provisionally increasing the pilotage dues at the port of Casablanca by 20 per cent.

The Department's assent to the application of the original tariff to American vessels, was notified to the French Resident-General at Rabat, in pursuance to Department's Instruction No. 185 of September 22, 1920, (File No. 881.84/-).²

The present increase was put into force without any previous notification to this Diplomatic Agency from the French Authorities, and it was collected from American vessels notwithstanding the protest of the steamship agents.

It was only after I had brought these circumstances to the attention of the French Resident-General and recalled that my Government's assent was necessary before the increased taxes could be legally levied on American ships, that Mr. Steeg's Diplomatic Cabinet formulated the necessary request for such assent.

There is no objection to the increase in question, but the Department may deem it advisable, for the maintenance of principle, to make the application of the increased dues to American vessels, conditional upon the refund of the additional amounts levied on American vessels prior to the notification of the Department's sanction thereto especially as, in the present instance, the local Authorities and port concessionnaires have disputed the applicability of American treaty rights in the premises.

I have [etc.]

MAXWELL BLAKE

¹ Continued from *Foreign Relations*, 1928, vol. III, p. 341-344.

² Not printed.

881.844/2

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 469

WASHINGTON, March 27, 1928.

SIR: The Department acknowledges the receipt of your despatch No. 271 of February 18, 1928, regarding the request by the French Resident General for the consent of this Government to the increase of the pilotage dues at Casablanca.

The Department perceives no objection to the increase to the Pilotage dues at Casablanca, and it is suggested that you may convey to the French Resident General the consent of this Government to the increase of dues when the taxes collected upon American vessels up to the date on which the consent of this Government is sent to the French Resident General have been refunded.

You will, of course, give the consent of this Government with the usual reservations as to the jurisdiction of the American Consular Court over infractions of this regulation committed by American nationals or *ressortissants* and as to the date upon which the regulation will become effective as to American nationals and protégés.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

881.844/3

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 359

TANGIER, January 25, 1929.

[Received February 8.]

SIR: I have the honor to inform the Department that, under date of April 19th, 1928, I transmitted a Note, (Enclosure No. 1) to the Residency-General of France at Rabat,³ communicating the conditions, as set forth by Instruction No. 469 of March 27th, 1928, (File No. 881.844), under which the Department granted its consent to the application; to American nationals and *ressortissants* in the French Zone of Morocco, of the increments decreed on the Port and Pilotage Dues at Casablanca, by Dahir dated May 28th, 1927.

The Residency-General having, in its Note of acknowledgment dated June 4th, 1928, (Enclosures Nos. 2 and 2A)³ appeared to contest the admissibility in principle, of the American Government's demand for the refund of the unauthorized increases, which have been unduly collected upon American vessels, I have deemed it necessary to oppose to that Note the arguments set forth in my communication to the Residency-General dated December 3rd, 1928, (Enclosure No. 3).⁴ The text of this communication, as the Department will

³ Not printed.⁴ *Infra.*

perceive, from the copy of the Residency's Note dated January 18th, 1929, (Enclosures Nos. 4 and 4A),^{4a} has been transmitted to the French Government in Paris.

I beg therefore respectfully to submit to the Department the entire correspondence exchanged on the subject between the Protectorate Government at Rabat and the American Diplomatic Agency at Tangier. I believe that the self explanatory character of this correspondence will dispense with any further comment on my part, except to explain that my Note to the Residency of March 10th, 1928, mentioned on pages 4 and 5 of Enclosure No. 3, is practically a textual reproduction of the Department's Instruction No. 461 of February 20th, 1928, (File No. 881.512/55).⁵

In conclusion, I trust that the Department will approve the terms of my Note to the Residency-General of France under date of December 3rd, 1928 (Enclosure No. 3), and I feel confident that it will support the position which I have taken in the matter.

I have [etc.]

MAXWELL BLAKE

[Enclosure]

*The American Diplomatic Agent and Consul General at Tangier
(Blake) to the French Resident General in Morocco (Steeg)*

TANGIER, December 3, 1928.

MR. RESIDENT-GENERAL: Mr. H. Earle Russell, American Consul in Casablanca, acting under instructions from this Legation, has been in correspondence with the local Authorities of that city, looking to the refund of an increase of 20 per cent on Pilotage Dues, irregularly and illegally collected from American vessels prior to the United States Government's assent to the imposition of this additional taxation on its citizens and proteges in Morocco. The American Consul now transmits to me the substance of a communication dated November 19th, 1928, from the aforesaid Authorities, to the effect that the matter is to be treated in accordance with the terms of a Note on the subject, which has been addressed by the Residency-General of France at Rabat to the American Diplomatic Agency at Tangier.

Reference is evidently made to Your Excellency's Note No. 169 of June 4th, 1928, which replied to my two letters advising you of the conditions under which my Government would render applicable to American *ressortissants* in the Zone of the French Protectorate, the increments, decreed by Dahirs of January 10th, and May 28th, 1928, on the Consumption Tax on Sugar and on the Pilotage Dues at the Port of Casablanca. This Note was accidentally filed away, at the time of its receipt, without having been brought to my notice. It is therefore

^{4a} Not printed.

⁵ *Foreign Relations*, 1928, vol. III, p. 343.

only now that I have become acquainted with Your Excellency's observations on the subject of my Government's request that the Maghzen shall cause to be refunded the amounts referred to in the preceding paragraph.

Your Excellency alleges that compliance on the part of the Shereefian Government with this request, is impossible since such reimbursements would produce a privileged situation in favor of American *ressortissants*, incompatible, moreover with the principles of my second reservation, which stipulates equal application of the decreed taxation to the nationals and proteges of all Powers. Consequently, I have the honor to set forth hereunder divers considerations, which in my submission, conclusively overrule these objections on your part.

As Your Excellency is aware, the existing treaties, to which the Shereefian Empire and the United States are parties, categorically debar the former from imposing upon the nationals of the United States, any taxation whatsoever, except the Customs Duties and certain other Taxes which are specified in the said treaties. The previous consent of the United States Government is therefore essential before any fiscal innovation can be legally enforced upon its citizens and proteges. It is furthermore beyond dispute that the American Government enjoys the fullest liberty to grant or to withhold, as it may think fit, its assent to the application to American *ressortissants* in the Shereefian Empire of any legislation or fiscal enactments introduced by the Moroccan Government. It is obvious then that the levy upon American *ressortissants* of taxation which has not received the required assent of the United States Government, constitutes an infraction by the Shereefian Government of the pertinent treaty provisions, and that restitution of such illegally collected taxation is a necessary and normal factor in the adjustment of the violation of American treaty rights.

In these circumstances it is idle to contend that the redress due on account of the failure of the Maghzen properly to observe its treaty obligations, must be withheld on the grounds that there would thereby arise a privileged situation for American nationals. Reference, in this connection, to the American Government's reservation as to the equal application of fiscal measures to the nationals of all Powers is likewise irrelevant, since it is obvious that the sole object of such reservation is to provide a safeguard against the possibility of Shereefian decrees eventually placing American interests in Morocco in a situation of inferiority as compared with those of some other Power.

In reference to the concluding paragraph of Your Excellency's Note hereby acknowledged, I would again recall to the Shereefian Govern-

ment, that the Franco-German Accord of 1911⁶ and the Franco-Moroccan Treaty of March 30th, 1912,⁷ to which the United States are not a party, and to which the American Government has not subsequently given its adhesion, can have no restrictive effect whatever upon any of the rights and privileges in Morocco which the United States derives from anterior treaties and conventions.

The position which was taken in Your Excellency's Note upon the point at issue, is furthermore in logical contradiction with the practice adopted, in the premises, by the Protectorate Government itself, for it is very evident that the latter's customary appeal to the United States to make new Shereefian legislation applicable to American *ressortissants* is susceptible of no other construction but as an admission, by the Maghzen, of its constitutional inability to enforce its decrees upon American citizens and proteges in Morocco, in the absence of appropriate action on the part of the Washington Government.

It will be sufficient for me to refer Your Excellency to the suggestions contained in my Note of March 10th, 1928,⁸ in order to make it clear that the American Government, notwithstanding the unqualified nature of its rights in the matter, is not actuated by a desire to avail itself of such rights for the purpose of securing a privileged situation of fiscal immunity for its nationals in Morocco. At the same time, it has no alternative but to insist upon an effective observance by the Shereefian Authorities of its existing treaty rights and privileges, and accordingly its assent must, in each instance, be formally solicited and obtained before new fiscal charges or any other legislation can be applied, by the agents of the Maghzen, to American citizens and proteges. The claims mentioned in the introductory paragraph of this communication, have arisen as the result of failure on the part of the Residency-General to observe the indicated procedure, at the proper time, in connection with the Dahirs under discussion.

If the objections set forth in Your Excellency's Note were to be admitted, the formal application required from the Shereefian Government for the assent of the Secretary of State to Moroccan decrees, would resolve itself into a meaningless, perfunctory formality, resulting in the stultification of those very treaty rights, which the procedure is designed to protect. Such a position is obviously untenable.

In conclusion, I venture to express the hope that, in the light of the foregoing exposition, Your Excellency will, upon reconsideration, be good enough to instruct the appropriate Authorities at Casablanca to

⁶ Convention between France and Germany respecting Morocco, signed at Berlin, November 4, 1911; *British and Foreign State Papers*, vol. civ, p. 948. This agreement completed an earlier one of February 9, 1909; *ibid.*, vol. cii, p. 435.

⁷ Treaty between France and Morocco for the establishment of a regular regime and the introduction of necessary reforms, signed at Fez, March 30, 1912; *ibid.*, vol. cvi, p. 1023.

⁸ Not printed.

restitute the amounts of taxation unduly levied upon American concerns, when their corresponding claims shall be presented by the American Consul in that city.

Please accept [etc.]

MAXWELL BLAKE

881.844/5

The Secretary of State to the Ambassador in France (Herrick)

No. 3076

WASHINGTON, February 26, 1929.

SIR: The Department refers to despatch No. 359 of January 25, 1929, from the American Diplomatic Agent and Consul General at Tangier (copies of which and of its enclosures were forwarded to the Embassy from Tangier) regarding the application to American nationals and *ressortissants* of the Dahir of May 28, 1927, which made a provisional increase of 20 per cent in the pilotage and harbor dues at the port of Casablanca. It notes from the communication of January 18, 1929, from the Residency-General to Mr. Blake that the matter under consideration has been referred to the French Government.

The original Dahir establishing an obligatory pilotage service in the port of Casablanca and fixing the charges to be imposed for anchorage, dockage and wharfage was issued on March 1, 1920, the customary request for the consent of this Government, under treaty provisions, to its application to American nationals and *ressortissants* being formally made to the American Diplomatic Agent and Consul General by the then Resident-General, General Lyautey. Under instructions from the Department, consent was granted subject to certain reservations. An increase in the rates established by the original Dahir was effected by the Dahir of May 28, 1927, and these increased charges were collected from American vessels without any previous notification to the American Diplomatic Agent and Consul General, who brought the circumstances to the attention of the Resident-General and recalled to him that, under treaty provisions, the consent of this Government was necessary before the increased taxes could legally be levied on American ships. Thereupon the necessary consent was requested by Mr. Steeg and, under instructions from the Department, the consent was accorded to be effective when the excess taxes, illegally collected prior to consent, should have been refunded. There ensued the correspondence of which the Embassy has been furnished copies, in which the Residency-General contended that to satisfy the condition as to refund would create a "veritable privilege" in favor of American vessels, and that the Franco-German Accord of 1911 and the Franco-Moroccan Agreement of 1912 "have given to France the right to introduce into Morocco any reforms and to bring to existing regulations whatever modifications might be useful". It was after Mr. Blake had, in his note of Decem-

ber 3, 1928, expressed his observations on these two points that the matter was referred to the French Government for consideration.

As you are aware, it has been the policy of the Department to maintain American rights in Morocco as defined by the Act of Algieras⁹ and previous instruments, and in accordance with that policy the Department has consistently made representations to the Shereefian Government whenever violations of those rights have occurred. Protests were made against the irregular manner of granting the Tangier port concession, the concession for the production of hydraulic and hydro-electric power, and the Oudjda Bou-Arba railroad concession, as the files of the Embassy will show, and last year it reminded the Shereefian Government of its rights in connection with the proposed construction of a pipe line. The Department has not altered its policy, and it cannot accede to the position of the Residency-General in the present instance, a position which, in view of the treaty rights which this Government retains in Morocco, is, as Mr. Blake points out, clearly untenable.

Furthermore, exception must be taken to Mr. Steeg's assertion that the Franco-German Accord of 1911 and the Franco-Moroccan Agreement of March 30, 1912, have given to France the right to introduce into Morocco any reforms and to bring to existing regulations whatever modifications she might deem useful. That statement, so far as it implies that those two agreements have affected American treaty rights, is inaccurate, as the Department has clearly set forth whenever such argument has previously been evoked. It will be recalled that this argument was advanced by the French Government at the time of the discussions concerning the Tangier Port Concession, and that the French Government was then fully acquainted with the position of this Government, from which it has at no time receded. At that time it was stated (see the Department's instruction No. 432 of September 21, 1922,¹⁰ a copy of which was handed by the Embassy to the French Government) :

"This Government has repeatedly pointed out to the French Government, both formally and informally, that it has never adhered to the protectorate treaty of 1912.

"The recognition of the French Protectorate in the French Zone of Morocco by this Government in its note of January 15, 1917, to the French Ambassador at this capital,¹¹ did not constitute an adhesion to the Franco-Moroccan Treaty of March 30, 1912, nor did this Government, by this or any other act, adhere to the Franco-German agreement of February [November] 4, 1911, which preceded the treaty of protectorate. On the contrary, this Government, in a note of December 5, 1911, informed the French Ambassador¹² that its

⁹ Signed April 7, 1906; *Foreign Relations*, 1906, pt. 2, p. 1495.

¹⁰ *Ibid.*, 1922, vol. II, p. 723.

¹¹ *Ibid.*, 1917, p. 1094.

¹² *Ibid.*, 1911, p. 623.

adhesion to the Franco-German Agreement '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.'

and this position was again stated in the Embassy's note No. 1042 of November 6, 1922, to the Minister for Foreign Affairs.¹³

The Department had occasion to reaffirm this position to the Shereefian Government in a note which in accordance with its instruction No. 393 of September 2, 1926 (a copy of which was furnished the Embassy under cover of the Department's instruction No. 2016 of September 2, 1926¹⁴), the American Diplomatic Agent and Consul General presented in connection with the protest of this Government against the manner in which a concession for the production of hydraulic and hydro-electric power in Morocco was granted. In that note, after referring to the Department's instruction of September 21, 1922, the notes exchanged in Washington in January 1917,¹⁵ which led up to the American recognition of the French protectorate,¹⁶ were quoted, and it was stated:

"It is obvious from a perusal of the above documents that the United States merely extended political recognition to the French protectorate over Morocco, leaving the question of a possible modification of its treaty rights (which would require ratification by and with the advice and consent of the United States Senate) for future negotiations between the two Governments, and it is equally obvious that this distinction was clearly understood by the French Government. It need hardly be remarked that no such negotiations have ever been carried out or ratified.

"In consequence it is apparent that the treaty rights of the United States in Morocco remain as defined in the Act of Algeciras and previous treaties."

The Department approves the position taken by the American Diplomatic Agent and Consul General in the present instance, and it deems it advisable, since the Shereefian Government has revived the point and since the matter has been referred to the French Government, to remind the latter, by stating its entire approval of Mr. Blake's note of December 3, 1928, that the treaty rights of the United States in Morocco, acquired by the Act of Algeciras and previous treaties, remain unimpaired. You are accordingly authorized to deliver to the French Foreign Office a memorandum in substance as follows:

The Government of the United States has received, through its Diplomatic Agent and Consul General at Tangier, a copy of a note

¹³ See telegrams No. 357, November 3, 1922, 5 p. m., and No. 361, November 4, 7 p. m., to the Ambassador in France, *ibid.*, 1922, vol. II, pp. 733, 734.

¹⁴ Neither printed.

¹⁵ See *Foreign Relations*, 1917, pp. 1093 ff.

¹⁶ See note No. 1977, October 20, 1917, to the French Ambassador, *ibid.*, p. 1096.

under date of January 18, 1929, from the Residency-General to Mr. Blake,¹⁸ in acknowledgment of the latter's note of December 3, 1928, concerning the application to American nationals and *ressortissants* of the Dahir of May 28, 1927, which made a provisional increase of 20 per cent in the pilotage and harbor dues at the port of Casablanca. The former note states that the text of the note from the American Diplomatic Agent and Consul General has been transmitted to the French Government for consideration.

The Government of the United States is confident that the French Government will recognize the validity of the position taken by the American Diplomatic Agent and Consul General, which position has the full endorsement of the Government of the United States and is in accord with that which this Government has previously had occasion to set forth to the French Government, and that it will appreciate that this Government is constrained to withhold its assent to the application to its nationals and *ressortissants* of the Dahir of May 28, 1927, until such time as refund has been made of the excess taxes previously collected in contravention of the treaty rights of this Government.

The Department desires that you report when this memorandum shall have been presented to the French Government.

I am [etc.]

FRANK B. KELLOGG

881.844/8

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

No. 9811

PARIS, September 5, 1929.

[Received September 18.]

SIR: With reference to the Department's Instruction No. 3076 of February 26, 1929, instructing me to present a memorandum to the French Government regarding the application to American nationals of the Dahir of May 28, 1927, which made a provisional increase of 20% in the pilotage and harbor dues at the port of Casablanca, I have the honor to report that, as stated in my telegram No. 98 of March 14, 1929, 12 A. M.,¹⁸ this memorandum was duly presented to the Foreign Office. I handed it myself to M. de Saint Quentin, Director of the African and Levant Section of the Foreign Office, at the same time informing him that, after he had had an opportunity to study the dossier, I would be pleased to discuss the question further with him.

On August 17, I called on M. Corbin, Director of Political and Commercial Affairs at the Foreign Office, when I took up with him the question of the Shereefian Dahir of June 6, 1929, prohibiting the importation of foreign wheat and flour into the French zone of Morocco. (See the Department's Instruction No. 4192 of August 6, 1929,

¹⁸ Not printed.

and my telegram No. 383 of August 17, 11 A. M.¹⁹) I availed myself of this opportunity to mention to M. Corbin my visit to M. de Saint Quentin on March 14 last, at which time I had presented a further memorandum regarding the pilotage and harbor dues at the port of Casablanca, adding that I felt constrained to point out that the Embassy had received very little satisfaction so far as matters coming within the jurisdiction of the Sous-Direction de l'Afrique et du Levant were concerned. I pointed out that the question of pilotage dues had now been dragging on for many months and expressed the hope that he would use his good offices to the end that some acknowledgment might be made and action taken on the representations of my Government in this matter. M. Corbin explained that M. de Saint Quentin was then attending the conference at The Hague, but he promised to look into the matter and expedite the reply.

On September 3 last, I again called on M. Corbin and took the occasion to remind him of his promise to me of some two weeks before. At the same time, feeling that it would serve to refresh his memory on the whole question, I took the liberty of showing him the Department's Instruction No. 3076 of February 26, 1929, which sets forth very fully our Government's position in this matter and the reasons therefor. (It will be remembered that in this Instruction the Embassy was directed to deliver to the French Foreign Office a short memorandum, contained on Pages 6 and 7.)

M. Corbin seemed to be impressed by the arguments set forth by the Department and I think will do everything in his power to see that a reply is handed to us at the earliest possible date.

I have [etc.]

NORMAN ARMOUR

881.844/11

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

No. 4265

WASHINGTON, October 7, 1929.

SIR: The Department refers to your despatch No. 9811 of September 5, 1929, concerning your observations to M. Corbin, with respect to the little satisfaction which the Embassy has received in matters coming within the jurisdiction of the Sous-Direction de l'Afrique et du Levant of the Foreign Office, and commends your efforts to expedite action in the several matters concerning Morocco upon which you have been authorized to make representations to the Foreign Office.

An increasing tendency of the Protectorate authorities to disregard the régime of the open door and to encroach upon American rights generally has been observed by the Department, and apparently if the protests which this Government has found it necessary to make to the French Government from time to time are not to be regarded

¹⁹ Neither printed.

as merely perfunctory by the latter, such action as that reported in the despatch under reference will occasionally be necessary.

I am [etc.]

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

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION
BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO ²⁰

452.11/214

The Chargé in Spain (Whitehouse) to the Secretary of State

No. 1163

MADRID, February 28, 1929.
[Received March 16.]

SIR: Referring to your instruction No. 487 of November 22nd last,²¹ I have the honor to report that the Embassy was informed in the latter part of November, by Mr. Saavedra, the Director General of Moroccan Affairs, that the Spanish Government approved the Joint Report signed on July 12, 1928, by Mr. Blake and Mr. Pla,²² except in the case of Kittany. Mr. Saavedra stated that in this latter case there was a difference of opinion between the High Commissioner-ship and the Ministry of War. At that time Mr. Saavedra promised to try and accelerate a decision on the part of the Spanish Government, but unfortunately General Jordana fell seriously ill and was unable to attend to business for about two months.

As Mr. Pla, who signed the report, has been appointed Vice-Secretary General of the Foreign Office it seemed better to await his arrival in Madrid before taking any further steps to obtain confirmation of the agreement by the Spanish Government. Mr. Pla assumed his new duties last week, and I went to see him today to enlist his support in having this agreement ratified. He merely confirmed to me what I have stated above as coming from Mr. Saavedra, but added that in view of General Jordana's improved health he hoped really to obtain some action in the near future.

I have [etc.]

SHELDON WHITEHOUSE

452.11/215: Telegram

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

TANGIER, May 14, 1929—10 p. m.
[Received May 15—7:22 a. m.]

10. Referring to my No. 311 of July 12, 1928,²³ and to the Department's No. 525 of April 11, 1929.²⁴

²⁰ Continued from *Foreign Relations*, 1928, vol. III, pp. 344-367.

²¹ *Ibid.*, p. 366.

²² *Ibid.*, p. 353.

²³ *Ibid.*, p. 349.

²⁴ Not printed; it transmitted a copy of despatch No. 1163, February 28, 1929, from the Chargé in Spain, *supra*.

My Spanish colleague here intimated to me that Spanish High Commissioner desired to interview me regarding joint report on American claims in Spanish Zone with view to immediate settlement and I accordingly paid an informal visit to General Jordana in Tetuan yesterday. The settlement of the claims rests entirely with him and he pressed me urgently for some concessions under the promise of an immediate settlement. After a four hour conversation I agreed to recommend that the Department accept the deletion of the item of 80,000 pesetas for usufruct on the claim of Kittany and various other minor reductions in other claims aggregating a deduction of about 125,000 pesetas on the total findings. The three claims subject to reservation will be pursued in discussions subsequent to payment of remainder and following recognition of Spanish Zone as suggested in my memorandum for Ambassador Hammond.^{24a} Spanish Government is to lay these propositions shortly before the Department and I strongly recommend their approval owing to the advisability of an early establishment of normal political relations with the Spanish Zone and also because the Spanish request for the concessions was based upon fair and reasonable grounds and they will prejudice no intrinsic rights or principles. For the purpose of expediting matters settlement of claims should be effected by Jordana and myself in Tetuan following which I would telegraph the Department in order that recognition of the Spanish Zone might take place without delay.

Copy of this telegram mailed to Embassy, Madrid.

BLAKE

452.11/217

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 392

TANGIER, May 17, 1929.

[Received June 3.]

SIR: I have the honor to enclose herewith copy of a communication, dated May 15th, 1929,²⁵ under cover of which I transmitted to Ambassador Hammond at Madrid, the text of my Telegram No. 10 of May 14th, 1929, 10 a. m. [*p. m.*?], to the Department, reporting the result of my recent interview with General Jordana, on the subject of the settlement of the American claims included in the "Joint Report" of July 12th, 1928, and to submit to the Department herewith a brief amplification of my telegraphic report above mentioned.

Since the signature of the "Joint Report," I have kept myself in touch with my Spanish Colleague, on the subject, but General Jordana's prolonged and serious illness, as the Department is aware,

^{24a} *Foreign Relations*, 1928, vol. III, p. 360.

²⁵ Not printed.

prevented any practical developments. However, Señor Pla's successor, Don Bernardo Almeida, on the occasion of several of his recent journeys to Tetuan, touched upon the subject of the settlement of the American claims, with the Spanish High Commissioner, and he (Señor Almeida) informed me some time ago that General Jordana would much appreciate the opportunity to discuss the matter with me at a private and unofficial interview. Accordingly, I arranged to visit him in Tetuan, as stated in my cable No. 10 above mentioned, on the 13th instant.

The outset of our conversation, to my great disappointment, seemed to indicate reasons for considerable apprehension that ground had been lost, as regards the general approach of the Spaniards towards the question. My previous success in convincing the Spanish Authorities of the value of the mere act of official recognition by the American Government of Spain's position and authority in Morocco, appeared to have been somewhat reversed, and since the High Commissioner had, only within the last month, brought to a conclusion, a settlement of all outstanding Dutch claims, against the surrender by the Netherlands Government of its extraterritorial rights in the Spanish Zone, he informed me that, without the promise of a similar relinquishment on the part of the American Government, he perceived no advantage in the sacrifices which the Spanish Zone Authorities were called upon to make for the settlement of American claims. It was at the cost of no little difficulty, that I was finally able to dislodge General Jordana from this position. These circumstances, however, impressed upon me the urgency of concluding a complete and definite agreement, immediately to be put into execution, if we were to avoid the danger of an indefinite delay in the settlement of our claims, the postponement of the normalization of our relations with the Authorities of the Spanish Zone, and the consequent prolongation of the present unsatisfactory absence of regular and official contact, with its ever present contingency of difficulties, friction, and accumulating claims, to the mutual detriment of the interests of both parties.

I then made a reference to the information which had been imparted to me by the Department's Instruction No. 525 of April 11th, 1929, (File No. 452.11/214),²⁶ but, from General Jordana's remarks, I understood the position to be that, while objections of a fundamental character had been taken against the Kittany claim, the other claims were admitted only in principle, and that the Spanish Government had conferred upon General Jordana full liberty to deal with the revision of all claims at his discretion. It was also abundantly evident to me that General Jordana was anxious to impress his own hand upon the work which had already been done, and es-

²⁶ Not printed.

pecially, to make a show of his personal achievement, in the matter, for the satisfaction of his Government.

With the foregoing circumstances and psychological factors brought into play, it will be realized that I was confronted with an extremely difficult task in my endeavor to maintain intact the results of the "Joint Report."

It would be futile to reach any conclusion which excluded a definite acceptable settlement of the most important of all the claims, namely, the Kittany claim, which was especially to be impugned, and therefore I firmly refused to accept any independent or deferred consideration of this claim, and would only discuss it as an item of the entire "Joint Report."

I venture to believe that the outcome of my day's negotiations with General Jordana will, in view of the above conditions, be deemed to be entirely satisfactory, and there will be no other necessity for me but to give some indication to the Department of the considerations which determined my decision to recommend the reductions of the original claims, as signalized in my cable No. 10 of May 14th, 1929, 10 a. m. [*p. m.*?]

In regard to Kittany's land, even after good progress with respect to the acceptance of title, I finally found myself confronted with the prospect of a survey and revaluation of the property, which might have resulted, not only in a reduction of the capital amount of the claim, but would in any case have occasioned an indefinite delay involving, consequently, a jeopardy to other settlements. When, therefore, objections were advanced to the claim of 80,000 Pesetas for 16 years usufruct of the property, on the grounds that the Spanish Administration was firmly convinced that it had made a bona fide purchase of the property from the Sultan Mulay Haffid, that the extent and definition of the property claimed by Kittany was even yet undetermined, and that prior to the transaction between the Spanish Government and Moulay Haffid, Kittany's possession and occupation of the property, except perhaps in a minor portion, could not be substantiated, I offered to delete this item, if such concession would secure acceptance of the capital claim.

The General also made objections to the abduction claims on behalf of El-Hassan Raisuli. In regard to the indemnity for abduction and captivity, he stated that the Spanish Government was prepared to dispute the contention that the bandit Raisuli was, at the time he molested his cousin, the American protegee, a functionary or collaborator of the Spanish Administration, but the General's firmest opposition was to the item under this claim, covering an indemnity for the inability of El-Hassan Raisuli, to administer his lands after his release, on the grounds, as stated by the claimant, that he "feared"

again to be kidnapped. General Jordana maintained—and not without apparent justification—that this motive for the claim was scarcely sustainable, and after discussion it was finally agreed to rule out 33,333.35 Pesetas, after obtaining a compensatory addition of 12,000 Pesetas to the claim of Pesetas 6,944.45 for military damage to Raisuli's property, and incidentally maintaining the figure Pesetas 39,065.00 claimed in respect of compensation for the abduction and captivity of the American protegee by the bandit Raisuli.

Then again, I made no difficulty in acquiescing in the General's request for the elimination of the claim connected with the closing of Thamy Slawee's Fondack, at Alkasar Kebir, in consideration of the fact that the measure had been taken in the interests of sanitation, and that the American claimant was free to dispose of his property for any other purposes than that of a Fondack, for which its location rendered it unsuitable from a point of view of public hygiene.

I furthermore agreed to require Thamy Slawee to pay a sum of 930 Pesetas, his share of a contribution of a group of local proprietors, for municipal improvements of a character to enhance the value of their property.

The above modifications resulted in a definite mutual agreement on the claims in question. In making the concessions indicated, my decision was guided by a critical examination of the Spanish objections, and by considerations of their possible effect upon the mind of an eventual unbiassed arbitrator. I venture to hope that the Department will concur in my judgments and accept my recommendations in this connection.

The three claims upon which reservations were made by Señor Pla, were treated in accordance with the suggestion set forth in Section III of the Memorandum, dated August 15th, 1928, prepared by me, for Ambassador Hammond²⁷ in pursuance of Department's cable No. 11 of August 9th, 1928, 1 p. m.,²⁸ as it was found to be impossible to have these claims settled at the present time.

Subsequent to the settlement of the other claims and to the recognition of the Spanish Zone by the American Government, negotiations on the subject of these reserved claims will be pursued between the American Diplomatic Agency at Tangier and the Spanish High Commissioner at Tetuan, and satisfactory settlements, it is hoped will be reached by direct agreement, or eventually with the assistance of an agreed arbitrator.

As indicated to the Department in my cable message No. 10 of May 14th, 1929, 10 a. m. [*p. m.* ?], complete "ad referendum" agreement was reached between General Jordana and myself, with the

²⁷ *Foreign Relations*, 1928, vol. III, p. 359.

²⁸ Not printed.

above mentioned modifications, on the subject of the "Joint Report." The General assured me that he was communicating the results of our interview forthwith to his Government and he assured me that an immediate settlement of the claims would be arranged. We were both of the opinion that for practical purposes, it would be preferable for the payments to be made, by him to me in Tetuan, as was provided in the "Joint Report," rather than through Washington or at Madrid.

It was of course understood that, from the moment of the settlement of the claims, the pertinent consumption taxes would be made applicable to American nationals and *ressortissants*, on the request of the Spanish Government.

I venture to hope that the Department will approve my action in the above regard, based primarily on the urgency of the normalization of our relations with the Spanish Zone Authorities, the importance and reasons for which have been indicated above, and have been fully dealt with in previous despatches.

I trust therefore that it will be possible, upon my telegraphing notification of the actual settlement of the claims, for the Department to arrange the formalities of recognition of the Spanish Zone, within a minimum of delay, and that, as soon after recognition as possible, it will arrange for the appointment of a Consular Officer at Tetuan.

I am transmitting attached to this Despatch a recapitulation of the claims, as amended,²⁹ in accordance with the foregoing indications. The "Joint Report" originally provided for the payment of an aggregate sum of Pesetas 637,295.15, which figures have been reduced by the following sums: Reserved claims, Pesetas 23,211.60; Kittany usufruct, Pesetas 80,000; Raisuli claims, Pesetas 21,333.35; Thamy Slawee, Pesetas 2,000, making a total reduction of Pesetas 126,544.95. The aggregate amount therefore to be paid immediately by the Spanish Government on the revised claims, will be Pesetas 510,750.20, as shown in Enclosure No. 2.

My object in telegraphing the Department on May 13 [14th], the substance of the agreement was for the purpose of enabling the Department to deal with any approaches, on the subject, which might have been made from the Spanish Government, before the present despatch could reach Washington. If however, at the date of the receipt of this report by the Department no action has been taken looking to the execution of the agreement, either with the Embassy in Madrid, or through the Spanish Ambassador in Washington, then I most respectfully suggest that the Department bring unceasing pres-

²⁹ Not printed.

sure to bear upon the Madrid Government until the engagements taken by General Jordana have been fulfilled.

In pursuance of the Department's previous instructions in the matter a copy of this despatch is being forwarded to-day to the American Ambassador in Madrid.

I have [etc.]

MAXWELL BLAKE

452.11/215 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

WASHINGTON, May 18, 1929—6 p. m.

10. Your telegram No. 10, May 14. Department is awaiting formal presentation of proposition by Spanish Government whereupon it will instruct.

STIMSON

452.11/218 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, June 11, 1929—7 p. m.

29. Reference Mr. Blake's letter to you May 15, 1929,³⁰ and your despatch 1163, February 28, 1929. Department is awaiting offer from Spanish Government to settle Moroccan claims on basis of *ad referendum* agreement between Blake and General Jordana. You may discreetly endeavor to expedite action bearing in mind Department's instruction in its telegram 52, August 9, 1928,³¹ concerning claims reserved. Report situation by telegraph.

STIMSON

452.11/219 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, June 19, 1929—5 p. m.

[Received June 19—2:50 p. m.]

41. Your 29, June 11, 7 p. m. Have twice seen Pla who is now in the Foreign Office, who tells me recent Blake-Jordana agreement is satisfactory to the Director of Moroccan Affairs and he hopes that the Government will soon approve it.

HAMMOND

³⁰ Not printed; but see despatch No. 392, May 17, 1929, from Tangier, p. 493.

³¹ *Foreign Relations*, 1928, vol. III, p. 358.

452.11/222

*The Diplomatic Agent and Consul General at Tangier (Blake) to the
Secretary of State*

No. 410

TANGIER, June 19, 1929.

[Received July 9.]

SIR: In reference to my No. 392 of May 17th, 1929, reporting the *ad referendum* agreement between General Jordana and myself revising the total amount of the American claims in the Spanish Zone, as originally provided for in the joint report, I have the honor to inform the Department that there occurred a slight misunderstanding with regard to the Raisuli indemnity, as explained in a communication, dated June 17th, 1929, which I have received from my Spanish Colleague. The Spanish Minister Plenipotentiary and Consul-General, in transmitting to me General Jordana's Memorandum of the results of our interview, points out that the proposition of the Spanish High Commissioner was, to increase Raisuli's indemnification for property destroyed by the military, from Pesetas: 6,944.45 to Pesetas: 12,000.00, whereas it had been my impression that Pesetas 12,000.00 was to be added to the original amount of this item of Raisuli's claim. It would seem impossible to question the good faith of the Spanish Commissioner in his statement as to his understanding of this agreement, and I am accordingly prepared to accept same. Consequently, the amount of the item in question of Raisuli's claims, will be reduced from Pesetas: 18,944.45 to Pesetas: 12,000.00. The grand total of the claims will therefore be reduced in the sum of Pesetas: 6,944.45 and will stand at Pesetas: 503,805.75.

I am informed in the same communication that on June 4th, 1929, General Jordana transmitted our *ad referendum* agreement to the Presidency of the Council of Ministers, General Direction of Morocco and Colonies, at Madrid.

From a trustworthy official source it has been intimated to me that the matter, now being in the hands of General Primo de Rivera,^{31a} is not likely to receive any solution through subordinate authorities, in the Spanish Foreign Office, and it therefore will remain in abeyance until it receives the personal attention of the President of the Council.

I have [etc.]

MAXWELL BLAKE

^{31a} Marqués de Estella, President of the Spanish Council of Ministers and Minister for Foreign Affairs.

452.11/221

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1280

MADRID, June 24, 1929.

[Received July 8.]

SIR: With reference to your telegraphic instruction No. 29, June 11, 7 p. m., 1929, and my reply No. 41, June 19, 4 p. m., 1929, I have the honor to report that I today saw Mr. Saavedra, the Director General of Moroccan Affairs.

Mr. Saavedra informed me that he had now examined the recent agreement between Mr. Blake and General Jordana, and expected to be able to make his report to Marques de Estella within a week. While he implied that he was not altogether satisfied with the settlement of the Raisuli claim, he promised that I would receive a note from the President of the Council in regard to these negotiations before the latter left on his summer holiday on July 14th. He added, perhaps as an excuse for the great delay of the Spanish Government in coming to a decision, that it was not the sum of money involved which was small, but the questions of principle involved which required careful study by the competent authorities.

A copy of this despatch is being transmitted to Mr. Blake for his information.

I have [etc.]

OGDEN H. HAMMOND

452.11/223 : Telegram

The Secretary of State to the Chargé in Spain (Whitehouse)

[Paraphrase]

WASHINGTON, July 9, 1929—2 p. m.

37. Reference the Department's 29, June 11, and telegram 17, July 7, from Tangier to the Department.³²

During the presence at Madrid of General Jordana from Morocco, you should endeavor discreetly to hasten action by Primo de Rivera on the amended joint report.

STIMSON

452.11/230

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1338

SAN SEBASTIAN, August 20, 1929.

[Received September 4.]

SIR: With reference to my telegram No. 51 of August 14, 10 a. m.,³³ I have the honor to transmit herewith the text, with translation, of the note dated August 9, 1929, which I received from the General

³² Letter not printed.³³ Not printed.

Secretariat of Foreign Affairs relative to the settlement of our claims in the Spanish Zone of Morocco. Copy of the note has been sent to Tangier.

I have [etc.]

OGDEN H. HAMMOND

[Enclosure—Translation]

The Spanish Vice Secretary General for Foreign Affairs (Pla) to the American Ambassador (Hammond)

R. G. 48
No. 151

MADRID, August 9, 1929.

EXCELLENCY: The Government of His Majesty, desiring to find a friendly and satisfactory solution that would definitely settle all the pending North American claims in its Protectorate Zone, has proceeded in the most conciliatory spirit to the study of the same, and in consequence has reached the following classification:

1st. The following claims are accepted as just and indisputable:

a) For payment of taxes:

	<i>Ptas.</i>
Only claim, S. & J. Cohen	4, 140. 00
Third " Rahamin [<i>Rahamim?</i>] Muyal	17, 035. 50
Fourth " " " "	5, 992. 75
Only " J. Bentolila	6, 384. 30

b) For gate taxes:

Second claim, Rahamin Muyal	4, 738. 00
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c)

Only claim, David Bergel, for detention of automobile . .	50, 255. 75
First claim of Raisinu, ³⁴ for sequestration of \$6,500, which equals at exchange rate of 7	45, 500. 00

TOTAL 134, 046. 30

2nd. Claims which must be absolutely disallowed, as the Protectorate is in no way responsible for the acts upon which they are based, are the following:

Only claim, Singer Co., for events of 1921	6, 412. 50
" " Driss el Quettani, ³⁵ for the farm Lala-Sfia	400, 000. 00
First claim, Rahamin Muyal against Railway . .	10, 000. 00
Eleventh claim, Tahami Selau, ³⁶ for closing Fondak	2, 000. 00

Total 418, 412. 50 Ptas.

³⁴ Hassan Raisuli.

³⁵ Driss El-Kittany.

³⁶ Thamy Slawee.

Second claim, Raisuni, for fear to cultivate his farm because of possible vengeance of his deceased cousin, Caid de Yebala	33,333.35 Ptas.
(These last two claims are essentially waived by the North American Representative in Tangier)	

451,745.85 Ptas.

On a basis of reciprocity it would seem natural that the payment of the claims deemed just should be subordinate to the waiving by the North American Government of those others that are not, which are precisely those that figure in this category.

3rd. Out of special consideration for the North American Government, and in spite of the fact that the responsibility of the Protectorate is not clearly defined in all cases and that in many of them, even when such responsibility is actually established, the amounts claimed as indemnities are greatly exaggerated, the Government of His Majesty will agree—purely as a matter of grace and not insisting upon the elucidation of the facts and new expert examinations—to pay at the moment of the relinquishment by the North American Government of the régime of capitulations (payment to be made them in Tangier or Washington at the choice of the United States Government) and on the day of the signature of the agreement in which the said relinquishment is made, the following claims:

a) For thefts:

Third, fourth and fifth claims, Tahami Selauï, for cattle stolen	11,222.00 Ptas.
Seventh claim, Tahami Selauï, for stolen mare	555.55 “
Eighth claim, “ “ “ “ horse	277.75 “
Ninth “ “ “ “ mule	555.55 “
Second “ Mohamed Oknin	4,188.25 “

b) For damages to farms:

Second claim, Tahami Selauï (El Minza)	23,083.35 “
Tenth “ “ “ (Tarik Br[Er?]-Rad)	2,777.75 “
Third “ Raisuni	12,000.00 “
(For claim that precedes the accepted increase accorded by the High Commissioner)	
First claim, Mohamed Oknin	8,333.35 “

Total 62,993.55 Ptas.

In this relinquishment of the said régime of capitulations, the Government of His Majesty would prefer, and believes that it will not inconvenience the North American Government, that instead of making a declaration comprising all the Shereefian Empire one should be made for each one of the Protectorate Zones.

4th. On the relinquishment of the régime of capitulations, the Government of His Majesty, giving new proof of the integrity and generosity by which it is inspired for the definite liquidation of the pending North American claims, would look for a means of taking into consideration the first claim of Rahamin Muyal amounting to 10,000 pesetas.

In view of the generosity and disinterestedness which His Majesty's Government has been proud to show in the foregoing classification, it confidently hopes that the Washington Cabinet will not delay the *de Jure* recognition of our Protectorate and that it will not retard, thereafter, the renunciation of its consular rights, following in this respect the precedent established by other countries, including Holland.

I avail myself [etc.]

ANTONIO PLA

452.11/236

The Secretary of State to the Chargé in Spain (Whitehouse)

No. 637

WASHINGTON, November 6, 1929.

SIR: The Department has received Mr. Hammond's despatch No. 1338 of August 20, 1929, transmitting the text of a note, dated August 9, 1929, from the Spanish Foreign Office, relative to the settlement of American claims in the Spanish Zone of Morocco, and has considered it in the light of the comments made in despatch No. 433 of September 4, 1929, from the American Diplomatic Agent at Tangier,³⁷ a copy of which was sent to you direct by the latter.

The Department is of the opinion that the suggestions made in the Spanish note of August 9 depart so radically from the agreement arrived at between the two Governments as a result of the interchange of the Department's note to the Spanish Embassy in Washington, dated November 7, 1927,³⁸ and the Embassy's reply of February 11, 1928,³⁹ which preceded the designation of Mr. Blake and Señor Pla to prepare a Joint Report regarding the settlement of the claims in question as well as from the understandings embodied in the Joint Report itself and in the supplemental discussions between Mr. Blake and General Jordana, and from the informal assurances on the subject which have been conveyed to you from time to time by officials of the Spanish Government as to amount to a virtual repudiation of that agreement and of the subsequent understandings upon which the discussion has proceeded. In these circumstances it would seem unprofitable and undignified for this Government to give any serious consideration to the proposals advanced in the Spanish note of August

³⁷ Not printed.

³⁸ *Foreign Relations*, 1927, vol. III, p. 273.

³⁹ *Ibid.*, 1928, vol. III, p. 346.

9, and accordingly the Department has no doubt that the Spanish Government will desire to resume at an early date the discussion of the claims in question upon the basis upon which they have heretofore been carried forward.

You may advise the Spanish Government verbally and informally of the views of this Government as indicated above, and in the event that the Spanish Government evinces a desire for further informal discussion upon the various phases of the question of the settlement of the American claims in the Spanish Zone of Morocco, you may in your discretion make further informal observations in the sense of the present instruction and in that of Mr. Blake's analysis of the present Spanish proposals as contained in his despatch of September 4.

A copy of the present instruction has been sent to the American Diplomatic Agent and Consul General at Tangier for his information.

I am [etc.]

For the Secretary of State:
J. P. COTTON

452.11/238

The Chargé in Spain (Whitehouse) to the Secretary of State

No. 1416

MADRID, November 25, 1929.

[Received December 14.]

SIR: With reference to your instruction No. 637 of November 6, 1929, relative to American claims in Morocco, I have the honor to report that I saw Mr. Palacios, the Secretary General, last evening and told him that my Government considered that the Spanish note of August 9, 1929, had departed so far (*était tellement éloignée*) from the original bases laid down by the exchange of notes of November 7, 1927 and February 11, 1928, and the agreements reached by Mr. Blake with Mr. Pla and General Jordana that there seemed to be little to be gained (*ca ne profiterait guère*) by answering it.

Mr. Palacios said that in that case there was nothing to be done but to let the matter drop, but that he did not see the reason for our not answering the Spanish note.

I replied that if he wanted an answer, I presumed my Government was quite ready to give him a negative one, but that I would not hide from him that you were very surprised at the tenor of the Foreign Office note of August 9, which was so different from what Mr. Blake's agreements had led us to expect would be forthcoming, and the only thing to do would seem to be to reopen the conversations on the old basis.

Mr. Palacios then asked the date of the note in question and when I told him, said he was away on leave at the time, and was not familiar with the details, and he then inquired if I could tell him of any particular points in the note, to which we took exception.

I told him I certainly could tell him one, and that was the absolute repudiation of our principal claim, the Kittany one, which had been accepted practically without discussion by Mr. Cortes, Mr. Pla, and General Jordana.

Mr. Palacios made no further remark, and I got up to go, saying that if he wished to see me after looking into the matter, I was entirely at his disposal.

Mr. Palacios seemed annoyed at the idea of our not answering their note, and I regret if I was more explicit in my statement than your instructions warranted. However, my explanation leaves the matter quite open for the new Ambassador to send a reply if the Department so desires.

There is one point to which I should like to invite your attention and to which I referred in my despatch No. 1163 of February 28th last, namely, Mr. Saavedra's statement to me in November 1928 that there was a difference of opinion between the Ministry of War and the High Commissioner in regard to the Kittany claim. The repudiation of this claim is therefore due to the Ministry, and it would seem unlikely that any change in their opinion could be brought about by negotiating anywhere except in Madrid.

My conversation with Mr. Palacios also confirms the opinion expressed in Mr. Hammond's despatch No. 1374 of October 1, 1929,⁴⁰ relative to the signature of the note of August 9, 1929, by Mr. Pla.

My impression is that unless the shoe pinches somewhere, the Spanish Government will allow the question to slumber, as it never shows any anxiety to settle claims against it.

In view of the imminent arrival of the new Ambassador, I shall leave it to Mr. Laughlin to suggest any further course of action to the Department.

I have [etc.]

SHELDON WHITEHOUSE

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES TO AMERICAN CITIZENS AND PROTÉGÉS IN THE TANGIER INTERNATIONAL ZONE⁴¹

881.512/63

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 343

TANGIER, December 4, 1928.

[Received December 21.]

SIR: I have the honor to inform the Department that in the latter days of October, my British Colleague called upon me, and exposed

⁴⁰ Not printed.

⁴¹ For previous correspondence on the subject of the application of the Statute of Tangier, see *Foreign Relations*, 1925, vol. II, pp. 590 ff.

to me the financial difficulties of the Tangier Administration, and the desire of the latter to increase, from time to time, as conditions might demand, various taxes, notably the consumption taxes on imported commodities. He explained that such increase should be imposed without previous warning to the public, otherwise the Administration might find its contemplated measures forestalled by speculative forward purchases of the local traders. A draft law had, therefore, been drawn up, purporting to confer upon the Administration powers to this effect, and the British Consul-General stated that he had come, as President of the Committee of Control under the Tangier Statutes, to ask me to obtain the assent of the American Government to the law in question, insofar as it might affect the citizens and protégés of the United States in the Tangier Zone. I replied that, since the United States Government had not given its adhesion to the Tangier Convention,⁴² it would not be possible for me to act upon a solicitation made by Mr. Gurney, in his capacity as President of the Committee of Control, a Body whose existence I could not officially recognize. I explained that any such request must be made to the American Government through the regular Diplomatic channels, which in the circumstances, appeared to be the Resident-General of France at Rabat, as Minister for Foreign Affairs of His Shereefian Majesty, and this Diplomatic Agency.

The French Resident-General at Rabat has consequently just addressed to me a communication,^{42a} enclosing a copy of the draft law above referred to, and requesting that these measures be rendered applicable by the United States Government, to American *ressortissants* in the International Zone of Tangier. This draft law, in the French text and in English translation, is annexed hereto.⁴³ It is known as a "Loi de Cadenas," i. e. a "Padlock Law."

By this legislation, the Tangier Administration will be enabled at any moment, after the mere formality of notification to the Legislative Assembly, and the posting up of new schedules in the Customs House, to impose forthwith the levy of increased consumption taxes upon imported merchandise. The increments would subsequently be the subject of debate in the International Legislative Assembly and would remain definitely acquired to the Treasury, wholly or partially, in the proportion in which they were eventually voted by the local parliament, or they would be refunded to the parties concerned if the Administration's projected law were to be withdrawn, or if it were to be thrown out. The Administration proposes that the final disposition of the increments to be provisionally levied on goods imported by

⁴² Signed at Paris by Spain, France, and Great Britain, December 18, 1923; League of Nations Treaty Series, vol. xxviii, p. 541.

^{42a} *Post*, p. 515.

⁴³ Not printed.

American *ressortissants*, would depend upon the measure in which the sanction of the American Government might eventually be given to the supplementary taxation in each instance.

It would appear that the proposed legislative action of the Tangier Administration is undoubtedly incompatible with a proper observance of existing treaty provisions, for the following reasons:—

The treaties with Morocco inhibit the Sultan (or His Delegated Administrations) from imposing, under any pretext whatsoever, upon the *ressortissants* of the treaty powers, any taxation of whatever kind, except the Customs duties and other dues clearly specified in the said treaties. Consequently no new fiscal charges which the Maghzen may desire to introduce, can become applicable to the citizens and protégés of the United States, unless and until the assent of the American Government thereto shall previously have been requested and obtained. Now the effect of the "Padlock Law" above referred to would be to give a retroactive effect to the Department's sanction of the legislation; in other terms, new fiscal charges extraneous to the treaties, would, as a result of the "Padlock Law" be effectively imposed by the Maghzen's agents upon American citizens and protégés, prior to the notification of the Department's assent thereto. This would be contrary to the intention and to the long accepted operation of the treaties, and finally at variance with the practice consequently adopted by the United States Government vis-à-vis the Administrations of the French and Spanish Zones of Morocco.

In the French Zone, the Department has recently had occasion (see Instruction No. 461 of February 20th, 1928, (File No. 881.512/55),⁴⁴ relative to a sudden increase in sugar taxes for the relief of flood victims) to insist with the Residency-General at Rabat upon the condition that notification of the American Government's consent must precede the enforcement upon American *ressortissants*, of each and every legislative measure introduced by the Franco-Shereefian Government.

The Authorities of the Spanish Zone are inveterate offenders in ignoring treaty requirements when promulgating new fiscal measures, but they have been constrained in all cases, both by the British and Dutch Governments to refund all dues levied on their subjects prior to the approval by these governments of the laws concerned. Furthermore, the Department will recall that similar refunds figure among the items of the Statement of American Claims against the Government of the Spanish Zone of Morocco, approved in a joint report recently drawn up by the Representatives of the United States and of Spain in Tangier,⁴⁵ and which claims are now before the Spanish Government, awaiting settlement prior to American recognition of the Spanish Zone of Influence.

⁴⁴ *Foreign Relations*, 1928, vol. III, p. 343.

⁴⁵ *Ibid.*, p. 353.

It is obvious therefore—even if it were not impossible to consider the technical feasibility of acquiescence in the request of the Tangier Administration—that an acceptance of the “Padlock Law” in Tangier would be peremptorily debarred by the jeopardy, which would arise therefrom, to the respect due to our treaty rights in the other Zones of Morocco.

In informal private conversations with my British Colleague and also with the British Administrator of Finances in Tangier Zone, I have explained the treaty difficulties which I foresaw might block the way to an anticipatory blanket assent such as the legislation in question expected from the Department, to all future Tangier fiscal legislation, and I pointed out that whatever action the Department might deem it proper to take in the circumstances, it would be in the highest degree improbable that it could consent to make, in favor of the Tangier Zone, any departure from the only procedure, which, as being compatible with treaties, it was disposed to follow in the other Zones of Morocco.

The Financial Administrator of the Tangier Zone has subsequently informed me that he fully appreciates the reasons for resistance on the part of the American Government to any acquiescence in the “Padlock Law” and he made a confidential communication to me of the several fiscal measures, which it is proposed to introduce in the near future, under the preliminary application of that law. These measures have also been submitted to me by the Resident-General of France at Rabat, and as Minister for Foreign Affairs of His Shereefian Majesty his request has been made that the taxation in question be rendered applicable to American citizens and protégés in the Tangier Zone, as soon as the corresponding legislation shall have been adopted by the Tangier Legislative Assembly.

The following are the measures which the United States is requested to sanction:—

1. Enforcement of the Revised and Extended Gate Taxes, referred to in my No. 254 of January 12th, 1928, and the subject of the Department's Telegram No. 1 of February 6th, 1928, 6 p. m.⁴⁶

2. Increase of the Consumption Tax on Sugar and sugar products from 50 to 75 Francs per 100 Kilos.

3. Increase of Consumption Tax on Alcohol and Alcoholic products from 500 to 750 Francs per Hectoliter of pure alcohol.

4. Increase of Consumption Taxes on the undermentioned produce:—

On Tea from 150 Francs to 175 Francs per 100 Kilos.

On Raw Coffee from 50 Francs to 75 Francs per 100 Kilos.

On Toasted or Ground Coffee and Coffee substitutes, from 75 Francs to 100 Francs per 100 Kilos.

⁴⁶ Neither printed.

In its Instruction No. 461 above referred to, the Department suggests that it would not be indisposed to consider giving its assent in advance to proposed legislation submitted to it in good time prior to the promulgation thereof, and it would appear that this procedure would be appropriate in connection with the above proposed dispositions.

The latter represent, in my opinion, an excessive fiscal burden upon the Tangier Community; the consumption taxes moreover will thereby become higher than in the other two Zones of Morocco and will consequently tend to restrict the operations of Tangier merchants within the narrow limits of the Tangier Zone. The taxes are therefore, in my view, inherently uneconomical and prejudicial to the normal development of trade and economic activities of the Zone, and cannot but react adversely upon the general prosperity of the community and eventually upon the financial stability of the "International" Administration. However, we would perhaps be transgressing the scope of our proper functions, if we were to be guided solely by such considerations as these to maintain the immunity of the American residents from fiscal charges applied to the community in general, by the nominally representative body which presides over the safeguard of public interests. Amid the experimental and fluctuating conditions of government in the Tangier Zone, the utmost vigilance will be required to maintain the proper respect for our treaty rights. But, providing proposed legislation involves no direct or implied discrimination against American interests, that it is equally and universally applied to the nationals of all Powers, and that the Maghzen is prepared to solicit and obtain the Department's consent before any attempt is made to enforce the law upon American *ressortissants*, I believe that the Department would not desire, by withholding its assent in such conditions, to occasion embarrassment or obstruction to the efforts, however imperfect or inadequate they might appear to be, of the local government.

In accordance with all the foregoing considerations, I venture to suggest that the Department instruct me to advise the Resident-General of France at Rabat, that the American Government categorically rejects the "Padlock Law" for the reasons exposed in the earlier paragraphs of this Despatch, but that it is disposed to acquiesce in the application to the *ressortissants* of the United States in Tangier of the four particular measures above enumerated, under the following conditions:—

Subsequently to the formal notification to the Shereefian Government of the American Government's assent thereto, American citizens and protégés shall become [liable?], within the limits of the proposals as approved by the Department of State, and also in the measure in which, and as from the date upon which, the laws shall have been

definitely adopted by the Legislative Assembly, insofar as concerns the remainder of the community.

If the Department should concur in the above suggestion, I shall be grateful for its instructions to act in the sense indicated, and as in deference to our position the Tangier Administration is disinclined to move in the matter until our attitude is definitely revealed, I venture to hope that the Department's telegraphic instructions will be received by me before the commencement of the Christmas holidays, since it is desired to apply the above taxes as from January 1st, 1929.

I have [etc.]

MAXWELL BLAKE

881.512/60

The British Ambassador (Howard) to the Secretary of State

No. 573

WASHINGTON, December 7, 1928.

SIR: The International Administration of the Tangier Zone is desirous of securing the consent of the United States Government to the application to United States nationals of any legislative measures which may be passed, increasing existing or introducing new taxation. It is particularly anxious to secure such consent in respect of a measure relating to the consumption duties, the early introduction of which is considered to be most important, as without it it will not be possible to balance the Budget of the Zone.

I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform you that His Majesty's Government, who have learned that this desire on the part of the Administration is being brought to the notice of the United States Government by the United States Diplomatic Agent at Tangier at the request of the Resident General of the French Protectorate, earnestly hope that the United States Government will see their way to comply with it.

I am, in expressing this hope, to explain that so long as Italy was not a party to the international regime at Tangier and Italian subjects were not amenable to the laws enacted by the Administration, it was found impracticable to introduce additional taxation, either direct or indirect. It was indeed necessary on this account to suspend certain legislation passed by the Assembly. This difficulty has not, unfortunately, disappeared with the accession of Italy to the Tangier Statute, and the Administration feels that the continued immunity of United States nationals from the fiscal measures to be introduced, would inevitably prove an invincible obstacle to the enforcement of those measures, which, I am to point out, will be such only as are necessary to ensure the proper administration of the Zone and place its finances on the sound basis which it has not hitherto been possible to attain. I am to emphasize the fact that the United States Government are in no way being asked to surrender any of the rights

which they enjoy in Tangier, and which are fully recognised by the International Administration. They would remain in undisputed possession of those rights, just as they and His Majesty's Government remain in possession of their capitulatory rights in the French Zone although, out of international courtesy and in the interests of the successful administration of the zone, they in practice make the protectorate laws applicable to their nationals. It would, of course, always be open to the United States Government to withhold their consent in any particular instance where they considered that their interests might otherwise be prejudiced.

I have [etc.]

ESME HOWARD

881.512/61

The Italian Ambassador (De Martino) to the Secretary of State

WASHINGTON, December 10, 1928.

MY DEAR MR. SECRETARY: I have been advised by my Government that the International Administration of the Tangier Zone is desirous of securing the consent of the United States Government to the application to the United States nationals of any legislative measures which may be passed, increasing existing or introducing new taxation. It is particularly anxious to secure such consent in respect of a measure relating to the consumption duties, the early introduction of which is considered to be important.

At the same time I have been instructed to inform you that my Government who have learned that this desire on the part of the Administration is being brought to the notice of the United States Government by the United States Diplomatic Agent at Tangier at the request of the Resident General of the French Protectorate, earnestly hope that the United States Government will see their way to comply with it.

The International Administration of the Tangier Zone feels that the continued immunity of United States nationals from the fiscal measures to be introduced, would inevitably prove an invincible obstacle to the enforcement of those measures, which will be such only as are necessary to ensure the proper administration of the Zone and place its finances on the sound basis which it has not hitherto been possible to attain.

My Government wish to emphasize the fact that the United States Government are in no way being asked to surrender any of the rights which they enjoy in Tangier, and which are fully recognized by the International Administration, and that it would, of course, always be open to them to withhold their consent in any particular instance where they considered that their interests might otherwise be prejudiced.

Accept [etc.]

G. DE MARTINO

881.512/61 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

WASHINGTON, December 20, 1928—5 p. m.

16. Department has received notes from British and Italian Embassies seeking consent to application to United States nationals of any legislative measures concerning taxation which may be passed by International Administration of Tangier, and it is expected that similar notes will be received from Spanish and French Embassies. Reply is being withheld until receipt of representations reported to have been made by Resident General through you.

Please inform Department if latter received and when transmitted.

KELLOGG

881.512/62 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

[Paraphrase]

WASHINGTON, December 27, 1928—3 p. m.

17. Reference your despatch 343, December 4, 1928.

(1) You will mail the text of the French Resident General's communication which transmitted the projected "padlock law". Pending issuance of instructions to you, you are confidentially informed of the extreme unlikelihood of this Government acceding to any such proposal.

(2) Respecting assent in advance to the proposed four taxation measures, the Department, although it would probably not see any objection to giving assent to application of the measures to American nationals, does desire to examine the texts of proposed measures prior to authorizing you to give this Government's consent, which could then be given upon the adoption without amendment of such measures and after the usual formal request had been made for consent.

KELLOGG

881.512/67

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 350

TANGIER, December 31, 1928.

[Received January 18, 1929.]

SIR: I have the honor to acknowledge the receipt of the Department's cable Instruction No. 17 of December 27th, 1928, 3 p. m., which responds to my Despatch No. 343 of December 4th, 1928, concerning the request made by the French Resident-General at Rabat, as Minister for For-

eign Affairs of His Shereefian Majesty, that the American Government consent to render applicable to citizens and protégés of the United States in Tangier, certain measures in regard to new taxation, which the local Tangier Administration had proposed adopting as from January 1st, 1929.

In pursuance of these Instructions I beg to transmit herewith to the Department, the French text and English translation of the communication, under cover of which Mr. Steeg submitted, for the aforementioned purpose, the text of the dispositions referred to as the "Padlock Law." I note that it would appear extremely difficult to expect the Department's assent to this measure, and in this connection I would respectfully confirm, and indeed emphasize, the suggestion contained in my above mentioned Despatch, that, in the interest of the preservation of the principles of our treaty rights, which are constantly being assailed, it would appear advisable for the Department categorically to refuse to apply the "Padlock Law" to American *ressortissants* in Morocco. I have reason to believe that the Tangier Authorities are expecting a decision of this character, for this law receives little support in other quarters.

I likewise transmit to the Department copy of the French text and English translation of the Note from the French Resident-General submitting the text of each of the 4 Taxation Laws mentioned on pages 6 and 7 of my Despatch No. 343. These Enclosures are also annexed hereto . . .⁴⁷ The Dahirs of May 15th, 1925, referred to in these Enclosures, were the Decrees establishing the original consumption taxes, which it is now proposed to increase. These Dahirs were submitted to the Department in French and English copies⁴⁷ under cover of my Despatch No. 17 of September 5th, 1925.⁴⁸

There were earlier propositions to modify and increase the Gate Taxes, under the provisions of a law dated November 5th, 1927, (see my Despatch No. 254 of January 12th (1928),⁴⁷ and the Taxes on Tea and Coffee by a Law dated December 31st, 1927. The impossibility at that time of subjecting the *ressortissants* both of Italy and of the United States to the increases in question made it necessary to suspend their application. This was effected by means of a Law dated February 25th, 1928, the abrogation of which . . . is to revive the increased Consumption Taxes on Tea and Coffee, in the proportions set down in my Despatch No. 343 of December 4th, 1928, (pages 6 and 7).

I gather, from the cable Instruction hereby under acknowledgment, that the Department appears inclined to endorse the considerations, exposed in my Despatch No. 343, favoring the acceptance of the tax-

⁴⁷ Not printed.

⁴⁸ For despatch, see *Foreign Relations*, 1925, vol. II, p. 600.

ation measures above discussed, subject to proper observance of the required conditions. It is my belief that these conditions have, in regard to these particular fiscal enactments, been fully complied with by the Moroccan Authorities. It is also my opinion that the Department's consent might be given thereto forthwith, without the slightest prejudice to the treaty principles involved, and in the circumstances it is desirable that the delay of our assent should not be open to be construed as obstructing the effect of measures, which are to be applied to the nationals of all Powers without discrimination.

I am sure that the Department will appreciate the attitude which has been assumed in the premises by the Tangier Administration, both respectful of our rights and deferential to our interests. The local Government has long desired to apply the taxation in question, but has postponed its action until definitely assured of our consent.

The advance confidential information which has reached me from authorized sources in regard to the contemplated increases of the taxation, and which have been transmitted to the Department in my former Despatch on this subject, were intended to enable the American Government to notify its conditional assent prior to the actual promulgation of the laws, and by this means to permit of the simultaneous application, both to American *ressortissants* and to the community at large, of the measures in question, from the inception of their legal enforcement. In this way the Administration would be protected from the inconvenience of speculation calculated to defeat its legislation.

It is clearly understood that the Department's Telegram takes into account my suggestion that, its consent to the laws would be notified to the Moroccan Authorities upon their promulgation, only in the event that they were voted without amendments, unless such amendments were to have the effect of imposing a scale of taxation inferior to that which had obtained the Department's provisional approval. Under this formula there would be no impingement upon principles, and the urgencies and difficulties of the situation would be adequately responded to.

I am calculating that this Despatch will be in the hands of the Department by the 16th of January next, and if the Department finds it convenient, I shall therefore look to receiving its definite Instructions by telegram about the 20th of the same month.

The Department is aware that the budgetary necessities of the Tangier Administration are such as to give to this Despatch the character of urgent business.

I have [etc.]

MAXWELL BLAKE

[Enclosure 1—Translation]

The French Resident General in Morocco (Steeg) to the American Diplomatic Agent and Consul General at Tangier (Blake)

No. 361-D

RABAT, November 23, 1928.

MR. DIPLOMATIC AGENT: The Administration of the Zone of Tangier has just adopted a regulation of general interest concerning the increase of consumption taxes.

At the request of this Administration, and in my capacity as Minister for Foreign Affairs of His Shereefian Majesty, I have the honor to request you to be good enough to render applicable to your *ressortissants* in Tangier the dispositions in question, which are embodied in the annexed text.⁴⁹

I do not doubt that, upon reading this document, you will appreciate the interest involved, for the development of the city of Tangier, in the application of a measure which is destined to prevent the abuses of speculation.

The subsequent regulations connected with this text will be duly communicated to your Diplomatic Agency.

I avail myself [etc.]

T. STEEG

[Enclosure 2—Translation]

The French Resident General in Morocco (Steeg) to the American Diplomatic Agent and Consul General at Tangier (Blake)

No. 360-D

RABAT, November 23, 1928.

MR. DIPLOMATIC AGENT: Referring to my letter of to-day's date, I have the honor to communicate to you herewith four new draft regulations⁴⁹ concerning the consumption taxes and the Gate Taxes in Tangier. These dispositions will be enforced at a somewhat early date, which will be duly brought to your knowledge.

At the request of the Tangier Administration, I would be obliged if you would be good enough to render the provisions of these texts applicable to your *ressortissants*, as soon as these regulations shall be put into force.

Please accept [etc.]

T. STEEG

⁴⁹ Not printed.

881.512/68

The French Ambassador (Claudel) to the Secretary of State[Translation ⁸⁰]

NOTE VERBALE

The International Legislative Assembly of Tangier has passed a law, called "de cadenas", providing "that any bill presented by the Shereefian Administration tending to an increase in duties on consumption shall be made effective immediately". The new tariffs will be posted in the customs offices on the next day after the filing of the bill in the office of the Assembly, and from the time that they are so posted the new customs duties will be provisionally applicable. The benefit of the old tariff will, however, be given to goods shipped direct by sea and destined for Tangier before such new duties are posted.

The general application of this measure, intended to prevent the abuses of speculation, presents great interest for the development of Tangier and for a proper balance between the colonies residing there.

At the request of the President of the Committee of Control, the Sultan's Minister for Foreign Affairs, i. e., the Resident Commissioner General of France in Morocco, has communicated the text of the law in question to the Diplomatic Agent of the United States at Tangier and has requested him to extend the provisions thereof to American citizens and protégés in the Zone of Tangier, subject to his jurisdiction, immediately on the promulgation of the new law.

The Ambassador of France at Washington would appreciate it if the Secretary of State would be good enough to give the instructions to that Diplomatic Agent necessary to authorize him to comply with this request.

The bills contemplated by the legislative text in question would be communicated to the Diplomatic Agent and the supplementary revenues provisionally collected on products imported by American nationals would not be definitively added to the funds of the Treasury until such laws shall have been made applicable to such nationals.

The Federal Government would place the Zone of Tangier in an embarrassing position if it prevented the application to its nationals of this fiscal legislation which will be limited to the measures necessary to insure the good administration of the Zone and to stabilize its finances.

Moreover, in giving its assent to this law, the Federal Government will not abandon any of the rights which it possesses at Tangier and which are recognized by the International Administration. It will always be in position to oppose any particular measure which it considers prejudicial to its interests.

At the request of the President of the Committee of Control, M. Steeg has also communicated to Mr. Blake the bills which will be pre-

⁸⁰ File translation revised.

sented in the near future to the International Legislative Assembly to increase consumption duties and port duties. He has requested the Diplomatic Agent to submit these texts to his Government in order that the latter may authorize the application of these laws to its nationals in case they should be passed by the Assembly and approved by the Control Committee.

The Ambassador of France to the United States would appreciate it if the Secretary of State would also send the necessary instructions on this point to Mr. Blake.

It would also be desirable for the American Government to give to its agent at Tangier the necessary authority to make the future legislation applicable to American nationals, without the necessity of referring the matter to Washington in each case.

M. Claudel avails himself of this occasion to renew to the Honorable Frank B. Kellogg the assurance of his highest consideration.

WASHINGTON, January 3, 1929.

881.512/66

The British Embassy to the Department of State

AIDE MEMOIRE

In his note of December 7th last His Britannic Majesty's Ambassador had the honour to draw the attention of the Secretary of State to the desire of the International Administration of the Tangier Zone to secure the consent of the United States Government to the application to United States nationals of any legislative measures which might be passed increasing existing or introducing new taxation. The Administration were particularly anxious to secure such consent in respect of a measure relating to the consumption duties, the early introduction of which was considered to be most important, as without it, it would not be possible to balance the Budget of the Zone. This measure, a copy of which is annexed ⁶¹ to this *aide memoire*, was intended to ensure that any future increases in the consumption duties should become applicable provisionally from the moment of the introduction of the bills specifying the particular increases.

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, Sir Esme Howard expressed the earnest hope of His Majesty's Government that the United States Government would see their way to comply with this desire on the part of the Administration, which was being brought to the notice of the United States Government by the United States Diplomatic Agent at Tangier at the request of the Resident General of the French Protectorate. The note went on to explain the reasons for this request and to emphasize the

⁶¹ Not printed.

fact that the United States Government were in no way being asked to surrender any of the rights which they enjoy in Tangier.

Further than this, Sir Esme Howard has now learnt from Sir Austen Chamberlain that the Administration of the Tangier Zone have come to the conclusion that it is essential that provision should be made for increased taxation without undue loss of time. They are anxious that the introduction of measures which they had in view for the increase of consumption duties, etc., should no longer be deferred. Draft Laws providing for an increase of these duties on tea, coffee, sugar, alcohol, and beer, and reimposing the increased Gate Tax which was abandoned at the beginning of this year, have accordingly been prepared and transmitted by His Majesty's Consul-General at Tangier, in his capacity of President of the Committee of Control, to the Resident General of the French Zone with a suggestion that he should communicate them through the United States Representative at Tangier, to the United States Government, and at the same time request that they should be made applicable to American nationals if and when they are duly enacted. Mr. Gurney has communicated a copy of his letter to M. Steeg privately to his American colleague and a copy of the letter which contains the texts of the Draft Laws is annexed⁵² to this *Aide Memoire*.

These Draft Laws will be introduced under the existing system and will not become effective until after enactment, i. e., until they have been voted by the Assembly and approved by the Committee of Control. They are therefore in no way dependent on the passage of the Bill which formed the subject of Sir Esme Howard's note of December 7th. If that bill were passed before the Draft Laws have been enacted, the increased duties contemplated in the Draft Laws could be applied provisionally in the Tangier Zone, but they could of course still only be applied to United States nationals in the Zone with the consent of the United States Government.

Sir Esme Howard has been instructed to inform the United States Government of the intention of the Administration of the Tangier Zone to introduce these Draft Laws proposing specific increases, to point out that the Administration have been prompted by the necessity of providing for an increase of revenue at an early date, and to express the hope of His Majesty's Government, who are impressed with this necessity, that the United States Government will see their way to authorize their representative at Tangier to apply these measures to American nationals as soon as they become law. Such authorization would in no way prejudice their decision in respect of the bill referred to in Sir Esme Howard's note of December 7th.

WASHINGTON, January 7, 1929.

⁵² Not printed.

881.512/65

*The Italian Embassy to the Department of State*⁵³

[WASHINGTON,] January 8, 1929.

The British Ambassador has communicated privately to the Italian Ambassador an *aide-memoire* which he had handed on January 7th to the Secretary of State, concerning the intention of the Administration of the Tangier Zone to introduce, under the existing system, certain Draft Laws.

The Italian Ambassador, under instruction from his Government, wishes to associate himself to the request made by Sir Esme Howard.

881.512/66

*The Department of State to the British Embassy*⁵⁴

MEMORANDUM

The Department of State has received and given its careful consideration to the memorandum of the British Embassy of January 7 which, after referring to the British Embassy's note of December 7 on the subject of the proposed draft of a general law affecting the taxation of American citizens and protégés in the Tangier Zone, expresses the hope that the Government of the United States will authorize the American Diplomatic Agent and Consul General at Tangier to give the approval of the Government of the United States to the application to American citizens and protégés in the Zone of four specific draft laws altering certain tax rates in the Zone as soon as they shall have become law, assuming of course that they shall have been adopted by the Tangier administration without amendment.

In passing, it may be said that the delay of the Department in replying to the Embassy's note of December 7 has been due to the necessity of awaiting the receipt of a communication from the French Resident General in Morocco made in the established and recognized form through the American Diplomatic Agent and Consul General at Tangier⁵⁵ regarding the general law to which reference was made in the note of December 7. This communication the Department understands is now in transit and upon its arrival in Washington, it will be carefully considered, as will the communications the Department has received or may receive from the signatories to the Revised Statute of Tangier bearing upon the matter.

With regard to the more specific suggestion made in the British Embassy's memorandum of January 7 to the effect that this Government authorize its representative at Tangier to give this Govern-

⁵³ Handed by the Italian Ambassador to Assistant Secretary of State Castle on January 10, 1929.

⁵⁴ Copy transmitted on January 25, 1929, to the Italian Embassy.

⁵⁵ See Note No. 361-D, November 23, 1928, p. 515.

ment's assent to the four particular draft laws to which that memorandum referred as soon as they shall have become law, assuming that they shall have been passed without amendment, the Department likewise feels constrained to maintain its established practice of awaiting receipt of their text with an accompanying request for the consent of this Government to their application to American citizens and protégés in Tangier made in due form from the French Resident General in Morocco through the American Diplomatic Agent and Consul General at Tangier. When the Department has had opportunity to examine the text of these draft laws received in the manner indicated, it will be prompt to issue appropriate instructions in the premises to the American Diplomatic Agent and Consul General at Tangier. It is the understanding of the Department that these texts are already on their way to the Department from the American Diplomatic Agent and Consul General at Tangier with an accompanying formal communication addressed to him by the French Resident General. Accordingly, pending the arrival of these documents and their subsequent examination by the Department, this Government feels unable to act upon the request of the French Resident General in Morocco in the sense suggested by the British Embassy's memorandum of January 7.

WASHINGTON, January 16, 1929.

881.512/67 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

WASHINGTON, January 22, 1929—6 p.m.

4. Your despatch No. 350 of December 31, 1928. Department authorizes you to give the provisional consent of this Government to the application to American nationals and *ressortissants* of the four proposed taxation measures, such consent to be effective if and when these measures shall have been definitely adopted by the Legislative Assembly without any amendment, unless it be an amendment which provides only for a lower rate of taxation, and it being understood that the jurisdiction of the American consular court over American nationals and *ressortissants* who may be involved in infractions of these new laws shall remain unimpaired. Obviously the effective date of the law applying the Gate Taxes will have to be changed. Please telegraph action taken and date laws effective.

KELLOGG

881.512/67 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

[Paraphrase]

WASHINGTON, January 28, 1929—6 p. m.

5. To supplement the Department's telegram 4, January 22, 6 p. m. The Department of State will refuse consent to the "padlock law", and instructions are being sent by pouch for the reply to the French Resident General.

KELLOGG

881.512/67

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 505

WASHINGTON, January 29, 1929.

SIR: With reference to your despatches Nos. 343 and 350 of December 4 and December 31, 1928, respectively, concerning the request of the French Resident General for the consent of this Government to the application to American nationals and *ressortissants* of the proposed "padlock law" and of the four specific taxation measures, and supplementing the Department's telegram No. 4 of January 22, 1929, 6 p. m., in which you were authorized provisionally to assent to the four taxation measures, the Department concurs in your views concerning the "padlock law" and authorizes you to address a note to the French Resident General, in reply to his note of November 23, 1928 concerning that law, in substance as follows:

"This Government regrets that it does not see its way clear to giving the consent requested by His Excellency, in his capacity as Minister of Foreign Affairs of His Shereefian Majesty, to the application to its nationals and *ressortissants* of the proposed measure providing that any draft law submitted by the Administration in connection with an increase of consumption taxes shall be put into immediate effect. While desirous of facilitating the task of the Administration at Tangier in such manner as may be possible and appropriate, this Government is unable to concur in a proposal such as the contemplated law which would involve a radical departure from its well-established practice in Morocco in conformity with its treaty rights, and a substantial alteration of those rights. This Government will continue to give the same careful consideration which it has accorded in the past to requests made in accordance with existing treaty provisions for its consent to the application to its nationals and *ressortissants* of new taxation measures which shall have been definitely adopted by the competent legislative body in Tangier. Furthermore, this Government, if given through the customary channel an opportunity to examine proposed taxation measures, will issue appropriate instructions in advance to the American Diplomatic Agent and Consul General at Tangier so that, where possible, its consent to the application of

these measures may be given immediately after they have been duly adopted by the competent legislative body in the form submitted to this Government."

The Department requests you to inform it by telegram when you have transmitted this note to the French Resident General in order that it may at that time make appropriate reply to the representations of the British, French and Italian Embassies concerning this matter.

I am [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

881.512/69

The Spanish Ambassador (Padilla) to the Secretary of State

[Translation⁵⁸]

WASHINGTON, January 31, 1929.

The Ambassador of His Majesty the King of Spain has received instructions from his Government to request the Honorable the Secretary of State to be so good as to give instructions to the Diplomatic Agent of the United States at Tangier in order that the effects of the Law "de Cadenas" may, from the date of its promulgation, be applicable to the American citizens and protégés in the Tangier Zone under his jurisdiction.

This law, passed by the International Legislative Assembly of Tangier, provides that any project presented by the Shereefian Administration for the purpose of increasing the taxes on consumption shall be immediately applicable.

On the request of the President of the Committee of Control, the Minister for Foreign Affairs of the Sultan communicated the text of the said law to the Diplomatic Agent of the United States in Tangier, making the request stated, which is supported by the Government of His Majesty.

If the Government of the United States should not accede to the request, it would place the Tangier Zone in a difficult situation, and, on the other hand, by giving its consent it would not yield any of the rights which it enjoys in Tangier and which are recognized by the International Administration. It could always oppose any particular measure which it might consider to be prejudicial to its interests.

Upon the suggestion of the President of the Committee of Control, the Minister for Foreign Affairs of the Sultan has requested Mr. Blake to submit to his Government the texts of the projects of law which will be presented to the Legislative Assembly relative to increasing consumption taxes and port dues in order that he might authorize the application of these laws to North American citizens and protégés in case they are passed by the Assembly and approved by the Committee of Control.

⁵⁸ File translation revised.

The Ambassador of Spain in Washington would be grateful to the Honorable the Secretary of State of the United States if he would, accordingly, be good enough to give to Mr. Blake the proper instructions as well as those authorizing him to apply future legislation to North American citizens and protégés without the necessity of informing Washington in each case.

Alejandro Padilla takes this opportunity to renew to the Honorable Frank B. Kellogg the assurance of his highest consideration.

881.512/70 : Telegram

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

TANGIER, February 5, 1929—10 a. m.

[Received February 5—7:49 a. m.]

3. Your telegram No. 4, January 22, 6 p. m. Conditions Department's assent mailed French Resident General January 25, 1929.⁵⁷ Latter telegraphed me January 30, 1929; taxation referred to becomes applicable February 1st. All the measures definitely adopted without amendment in December sessions Legislative Assembly. Promulgation by Sultan's representative on January 31st and counter-signature President Committee of Control gave them executive authority. Enforcement gate tax delayed by adjustment of administrative dispositions until yesterday.

BLAKE

881.512/74

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 366

TANGIER, February 9, 1929.

[Received March 8.]

SIR: Following my despatch No. 360 of January 25th, 1929,⁵⁸ and in further reference to my Telegram No. 3 of February 5th, 1929, 10 a. m., concerning the assent of the Department to the application to American nationals and *resortissants* in the Zone of Tangier, of new fiscal measures adopted by the Authorities of that Zone, I have the honor to transmit, annexed hereto, in the French text and in English translation, copy of a Note which I have received from the Residency-General of France. I also annex hereto copy of a Note, on the subject, privately and unofficially communicated to me, addressed by the Representative of Italy, as President of the Com-

⁵⁷ Note dated January 23, 1929.

⁵⁸ Not printed.

mittee of Control in Tangier, to the Resident-General of France at Rabat, Minister for Foreign Affairs of His Shereefian Majesty. The Department will observe from these Enclosures, that the conditions set forth in its cable Instruction No. 4 dated January 22nd, 1929, 6 p. m., in the above connection, have been fully complied with.

I have [etc.]

MAXWELL BLAKE

[Enclosure 1—Translation]

The French Minister Delegated to the Residency General in Morocco (Blanc) to the American Diplomatic Agent and Consul General at Tangier (Blake)

No. 28—D

RABAT, February 5, 1929.

MR. DIPLOMATIC AGENT:—Referring to your letter of January 23rd last, and to my telegram of the 30th, *idem*, I have the honor to inform you that the Tangier Administration has taken note of the reservations which accompany the adhesion of your Government to certain fiscal measures which have just been adopted in that Zone.

In order to respond to the desire which you have expressed, I am able to give you the assurance that these measures have been adopted by the Legislative Assembly at Tangier without amendment and that their application shall involve no impairment of the rights of the American Consular Tribunals over their *ressortissants*.

I avail myself [etc.]

URBAIN BLANC

[Enclosure 2—Translation⁶⁰]

The President of the Committee of Control in Tangier (De Facendis) to the French Minister Delegated to the Residency General in Morocco (Blanc)

TANGIER, February 2, 1929.

MR. MINISTER: In pursuance of a request of the International Administration, communicated to you by my predecessor, you have been good enough to approach the Diplomatic Agent of the United States with a view to obtaining the application to his *ressortissants* of certain fiscal dispositions of the Zone of Tangier. And by letter No. 24—D of January 29th, you have had the kindness to communicate to me the favorable result of your amiable intervention.

I have the honor to inform you that the Committee of Control has taken note, in its today's meeting, of the assent of the American Government to the application to its *ressortissants* of the Zone of Tangier of the four laws relative to the gate taxes and to the increase of certain consumption taxes.

These laws, definitely adopted without amendment by the Legislative Assembly, enter into force, the first (gate taxes) from the 4th

⁶⁰ File translation revised.

instant and the other three (consumption taxes) from the first of this month.

It goes without saying that the consular jurisdiction of the United States of America shall remain competent to deal with disputes which might arise as a result of the application of these new dispositions to American *ressortissants* in the Tangier Zone.

Please accept [etc.]

The Consul General of Italy,
President
DE FACENDIS

881.512/73 : Telegram

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

TANGIER, February 14, 1929—5 p. m.
[Received February 14—1:15 p. m.]

5. Note in pursuance of instruction number 505 of January 29, 1929, on the "padlock law" was addressed today to the French Resident General at Rabat.

BLAKE

881.512/60

*The Secretary of State to the British Ambassador (Howard)*⁶⁰

WASHINGTON, February 27, 1929.

EXCELLENCY: I have the honor to refer to Your Excellency's note No. 573 of December 7, 1928, concerning the desire of the International Administration of the Tangier Zone to secure the consent of the Government of the United States to the application to its nationals of any legislative measures which may be passed increasing existing or introducing new taxation and particularly of a proposed general measure relating to consumption duties and sometimes referred to as the "padlock law". Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, Your Excellency expresses the hope of His Majesty's Government that this Government will see its way to comply with a request for such consent made by the Resident-General to the American Diplomatic Agent and Consul General at Tangier.

I regret to inform Your Excellency that, after careful consideration by this Government of the request of the Resident-General for its consent to the application to its nationals and *ressortissants* of the general measure, this Government has not been able to see its way clear to granting the consent requested and that the American Diplomatic Agent and Consul General at Tangier has so informed

⁶⁰ Similar replies were also made on February 27, 1929, to the Italian and Spanish Ambassadors (881.512/61, 69).

the Resident-General in a note which sets forth the position of this Government as follows:

[Here follows text of note as quoted in instruction No. 505, January 29, 1929, printed on page 521.]

Accept [etc.]

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

881.512/67

*The Department of State to the British Embassy*⁶¹

MEMORANDUM

The Department of State refers again to the memorandum of the British Embassy of January 7 which, after reference to the British Embassy's note of December 7 concerning the proposed general measure, sometimes referred to as the "padlock law", of the International Administration of Tangier, expressed the hope of His Majesty's Government that the Government of the United States would see its way clear to authorize the American Diplomatic Agent and Consul General at Tangier to consent to the application of four specific draft laws altering certain tax rates to American nationals and *ressortissants* as soon as the measures should have become law.

The Department of State is pleased to inform the British Embassy that, through the American Diplomatic Agent and Consul General at Tangier, the consent of the Government of the United States has been given to the application of the four specific laws under reference to American nationals and *ressortissants*.

WASHINGTON, February 27, 1929.

881.512/68

The Department of State to the French Embassy

MEMORANDUM

The Department of State refers to the *note verbale* of the French Embassy of January 3, 1929, concerning a general measure proposed by the International Legislative Assembly of Tangier and sometimes referred to as the "padlock law", providing for the provisional application of new customs duties the day after the measure proposed to create them has been filed in the office of the Assembly, and concerning also certain proposed specific taxation measures, the text of all of which was communicated by the Minister of Foreign Affairs of the Sultan to the American Diplomatic Agent and Consul General at Tangier. In this *note verbale* the French Embassy indicates that the Ambassador of France would be grateful if the Government

⁶¹ Similar replies were also made on February 27, 1929, to the Italian Embassy and to the Spanish Ambassador (881.512/65).

of the United States will give the necessary instructions to its Diplomatic Agent and Consul General to enable him to accede to the request for the application of these measures to American nationals and *ressortissants*, and suggests the desirability of this Government's giving him the power to consent to the application of future legislation without the necessity of referring to Washington in each case.

The Department of State is pleased to inform the French Embassy that, under instructions from the Government of the United States, the American Diplomatic Agent and Consul General has given its consent to the application to American nationals and *ressortissants* of the four specific taxation measures to which reference was made in the *note verbale*. It regrets, however, that the Government of the United States, after careful consideration of the request for its consent to the application to its nationals and *ressortissants* of the general measure, has not been able to see its way clear to granting the consent requested and that the American Diplomatic Agent and Consul General at Tangier has so informed the Resident-General in a note which sets forth the position of this Government as follows:

[Here follows text of note as quoted in instruction No. 505, January 29, 1929, printed on page 521.]

WASHINGTON, February 27, 1929.

881.512/75

The British Ambassador (Howard) to the Secretary of State

No. 201

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and, with reference to the memorandum from the Department of State of February 27th last (No. 881.512/67) and previous correspondence, has the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to convey to the United States Government the thanks of His Majesty's Government in the United Kingdom for having agreed to the application to their nationals and *ressortissants* of the four specific draft laws relating to certain consumption duties and the gate tax in the Tangier Zone of Morocco.

While naturally regretting that the United States Government have not seen their way to make applicable to American nationals the general measure providing that any draft law submitted to the Assembly by the Tangier Administration in connection with an increase of consumption duties shall be put into immediate effect, His Majesty's Government greatly appreciate, in general, the United States Government's statement of their desire to facilitate the ad-

ministration of Tangier in every possible way, and, in particular, their most helpful offer to examine in advance the texts—if furnished to them—of any fresh draft laws of this nature with a view to their enforcement at the earliest possible date after their adoption by the International Assembly.

WASHINGTON, April 8, 1929.

881.512/77

*The Secretary of State to the Diplomatic Agent and Consul General
at Tangier (Blake)*

No. 573

WASHINGTON, January 8, 1930.

SIR: The Department acknowledges the receipt of your despatch No. 408 of June 17, 1929, and enclosures,⁶² with respect to the request of the French Resident General for the application to American *ressortissants* of the Tangier laws on the registration and stamp taxes.

It appears to the Department that the enclosure to your despatch containing the registration and stamp law is merely the modification of the dahirs promulgated by virtue of Article 32 of the Convention of December 18, 1923, dated May 15, 1925, namely the dahir with respect to alcohols and beers, the dahir with respect to consumption taxes upon sugars, etc., the dahir with respect to registration taxes and the dahir with respect to the stamp tax. It would, therefore, appear that if the Department should give the consent of this Government to the provisions of the dahir enclosed with your despatch under acknowledgment it would consequently entail the consent of this Government in their entirety to the four dahirs of May 15, 1925, above referred to.

While the Department can appreciate that it may be for the practical benefit of American nationals and *ressortissants* doing business in the Tangier Zone to pay taxes in cases of transfers of movable property and the stamp taxes provided by the above mentioned dahirs, the taxes are objectionable in the cases of transfers of movable property, because American nationals would be subjected to continued interference in their private business transactions. Therefore, in the absence of any unusual emergency the Department is not inclined to give the consent of this Government to the application of these taxes to American nationals and *ressortissants* in the Tangier Zone. However, there is no objection to your advising American nationals and *ressortissants* that they may deem it advisable voluntarily to pay these taxes. The Department, however, has no objection to the application of the provisions with respect to the transfer of real property or rights therein or to the dahirs with respect to alcohol and beer and the consumption taxes on sugars, etc.

⁶² Not printed.

You may, therefore, inform the French Resident General that this Government gives its consent to the provisions of the dahirs with respect to alcohols and beers and the consumption taxes on sugars, etc., and to the regulations for taxes on the transfers of immovable property and rights therein, but regrets that it cannot give its consent to the provisions with respect to taxes on transfers of movable property and the provisions of the stamp tax as envisioned in the dahir of 1925 and its recent modifications.

The consent of this Government should be given with the usual reservations with respect to the jurisdiction of the American consular courts over infractions of these laws committed by American nationals or *ressortissants* and that the law will be effective only from the date upon which the notice of this Government's consent is given to the French Resident General. Furthermore, the consent of this Government should be given without prejudice to the position which was taken or may hereafter be taken regarding the present régime of the Tangier zone.

In view of the fact that this Government does not give its consent to the stamp tax it would not appear necessary to make any reservation with respect to the examination of the books and papers of American nationals and *ressortissants* by the officials charged with the collection of the stamp tax.

I am [etc.]

For the Secretary of State:
J. P. COTTON

NONACQUIESCENCE BY THE UNITED STATES IN THE APPLICATION
TO AMERICAN VESSELS OF THE TARIFF OF THE TANGIER PORT
CONCESSION COMPANY⁶³

* 881.843/5

*The Diplomatic Agent and Consul General at Tangier (Blake) to the
Secretary of State*

No. 389

TANGIER, May 7, 1929.
[Received May 28.]

SIR: I have the honor to transmit to the Department herewith, in the French text and in English translation, copy of a communication which I have received from the French Resident-General, as Minister for Foreign Affairs of His Shereefian Majesty, requesting that the tariff of the Tangier Port Concession Company be made applicable to American vessels, which call at the port of Tangier, in lieu of the rates now applied to them and referred to in Article 70 of the Act of Algeiras⁶⁴ for "Sojourn" and "Anchorage" dues.

⁶³ For previous correspondence on the subject of the application of the Statute of Tangier, see *Foreign Relations*, 1925, vol. II, pp. 590 ff.

⁶⁴ General Act of the International Conference of Algeiras, signed April 7, 1906; *ibid.*, 1906, pt. 2, pp. 1495, 1506.

The aforementioned "Sojourn" and "Anchorage" dues were fixed by the Treaty of 1856 between Great Britain and Morocco,⁶⁵ and the Act of Algeciras provides that they shall be increased, by agreement reached between the Diplomatic Corps and the Maghzen, after improvements shall have been effected in the ports of Morocco. The latter condition, so far as concerns the port of Tangier, may perhaps be considered as fulfilled, since port construction works are actually in process. It is also the opinion of the local authorities that the consent of the United States to apply the present tariff of the Port Concession Company would achieve the agreement spoken of in the Act of Algeciras in this connection, since all the other Powers have already, by means of their adhesion to the Tangier Convention,⁶⁶ and its clauses relative to the Port Concession, agreed to the new rates of the berth dues for vessels entering the Tangier Bay.

The dues now paid by American vessels visiting the port of Tangier, based on the tariff mentioned in the Act of Algeciras, amount to an aggregate sum of 22 Francs per vessel and per call. The tariff of the Port Concession Company at present in force, for the corresponding dues is on the basic rate of Francs 0.14 per ton and per call. The only American ships now calling regularly at Tangier, are those of the "Export Steamship Corporation," which maintain a regular service of one vessel monthly from New York to this port. The average tonnage of these vessels is 3000 tons, so that, in lieu of the 22 Francs which they now pay, they would, on the new tariff, be called upon to pay to the Port Concession Company, for each call at Tangier, about 450 Francs. The application to American vessels of the new tariff would, therefore, scarcely afford any material relief to the Port Concession Company in respect of its onerous obligations on which the Resident-General of France, in his communication, has laid some emphasis. On the other hand, it is also true that the application of the new tariff would not constitute any hardship on American vessels. It would furthermore place them on the same footing, as regards port dues, as the vessels of all other nationalities, and acquiescence in the French Resident-General's request might be recommended to the Department, were it not essential to give consideration, in this particular connection, to a situation involving important points of principle.

The French Resident-General points out that his request is made on behalf of the interests of the Tangier Port Concession Company,

⁶⁵ Convention of Commerce and Navigation between Great Britain and Morocco, signed at Tangier, December 9, 1856; *British and Foreign State Papers*, vol. XLVI, p. 188.

⁶⁶ Convention between Spain, France, and Great Britain regarding the organization of the Statute of the Tangier Zone, with protocol relating to two dahirs concerning the administration of the Tangier Zone and the organization of international jurisdiction at Tangier, signed at Paris, December 18, 1923; League of Nations Treaty Series, vol. xxviii, p. 541.

and the Department will no doubt deem that, in view of the position which it has taken in regard to the concession itself, (I refer to the Department's Instruction with Enclosures No. 234 of December 6th, 1922, (File No. 881.156/54),⁶⁷ and to its exchange of telegrams with this Diplomatic Agency concluding with the Department's cable Instruction No. 27 of June 30th, 1924, 1 p. m., to Mr. Rand)⁶⁷ that special caution should accompany any action of the American Government, in response to the Resident-General's present solicitation.

This caution would appear to be the more imperative since, as the Department is aware, the Franco-Shereefian Authorities have subsequently, as for instance in the case of The Electric Power Concession, and the Bou-Arfa Railroad Concession, repeated the grant of concessions in conditions which formed the object of the protest formulated in 1922 and reiterated in 1924 by the American Government, in the matter of the Tangier Port Concession. Moreover, in connection with this very concession, I would signalize a further violation of the Act of Algeciras which has recently been committed. The Department will recall that the concession of the Port was granted in 1921 to the "Société du Port de Tanger" and that subsequently, without elimination of features condemned in the Department's protests, the grant was confirmed by specific clauses of the "Tangier Convention" of 1923. Shortly after the enforced application of the Convention in June 1924, the "Société du Port," purporting to act in pursuance of the provisions of the Act of Algeciras and its pertinent regulations, caused the contract for the construction works to be put up for international adjudication. (It was on this occasion that the Department transmitted its telegraphic instruction to Mr. Rand, No. 27 of June 30th, 1924, 1 p. m., above mentioned.) The contract was let to a Franco-Belgian Construction Company, "La Société Nationale de Travaux Publics," which commenced work a few months later, and carried on until the middle of 1928, when the Contractors informed "La Société du Port de Tanger" that their funds were exhausted and that they were unable to proceed to the completion of the contract. It would appear, according to the regulations concerning Public Works, under the Act of Algeciras, that in such contingency, the defaulting Contractors might have been made to forfeit their guarantee deposit, and that, in any case, the situation should have given rise to a new call for bids in respect of the works remaining to be carried out. This was not done, but instead, a private agreement was reached between the Port Concession Company and the building Contractors, by which the two parties amalgamated and the construction works have been carried on by the joint concern. Adjudication of further contracts for works have thus been definitely set aside, so far as the construction of the Tangier Harbor is concerned.

⁶⁷ Not printed.

At the time this amalgamation project was under consideration by the Tangier Authorities, my British Colleague sounded me as to the attitude which I would assume in regard thereto. I informed him that it was my firm conviction that the American Government could not do otherwise than emphatically oppose such derogation from the provisions of the Act of Algeciras. I heard nothing further of the matter either from my British Colleague or from any other of the members of the "Committee of Control," but the scheme was eventually carried to realization, as above indicated, and without publicity. I have now learned that when the matter was considered by the Representatives of the Powers, sitting as the Committee of Control, the objection to this disregard of the terms of the Act of Algeciras was discussed, but that the French Engineer, Technical Adviser of the Maghzen, Delegate of the Shereefian Government on the "Tangier Port Commission," was able to demonstrate that the proposed combination was permitted and was provided for, under the terms of the "Cahier des Charges" of the Concession, and it was consequently sanctioned by the "Committee of Control."

It is obvious therefore that the Tangier Port Concession, not only violated the principle of the public international competition for concessions, which has already formed the subject of the protests of the American Government, but that it has subsequently been made the instrument to nullify the provisions of the Act of Algeciras in regard to international competition for contracts for the execution of public works.

It would seem impossible to take any action in the present connection, which should impair the position of principle taken on former occasions by the American Government on the question of the Tangier Port Concession, and I consequently venture respectfully to suggest the following alternatives:—

That I should be instructed, after bringing to the Maghzen's attention the foregoing considerations, to inform the French Resident-General that the American Government, regrets that it feels constrained, in the support of the position which it has taken in connection with the question of the Tangier Port Concession, for the protection of rights under the economic principles of its treaties with Morocco, to defer its acquiescence in the application to American vessels of a tariff of dues, imposed in conditions which are at variance with the terms of the treaties. It could be pointed out that such action, while reaffirming the Department's position, does not affect in any appreciable degree the material interests of any of the parties referred to in the communication of the Resident-General.

On the other hand, if, however, the Department would prefer to remove the existence of the discrimination, which results in favor

of American vessels in the port of Tangier, by their continuing to pay the old dues, then, the new rates might be applied to American vessels, and the position of the Department simultaneously safeguarded, if the Department refused to allow the new berthing charges to be paid direct to the Port Concession Company—whose existence the American Government cannot legally recognize—but should direct that they be paid, either direct to the Sultan's Representative in Tangier, or perhaps, preferably, to the American Legation in Tangier, to be transferred by periodical accumulations to the last mentioned Shereefian Authority.

In the event that the new tariff of berth dues is accepted, the stipulation would naturally be made that no further modification of the taxation would apply to American vessels without the previous consent of the American Government.

I have [etc.]

MAXWELL BLAKE

[Enclosure—Translation]

The French Resident General in Morocco (Saint) to the American Diplomatic Agent and Consul General at Tangier (Blake)

No. 111-D

RABAT, April 13, 1929.

MR. DIPLOMATIC AGENT: The attention of the Shereefian Government has just been called to the exceptional situation which exists in the port of Tangier from the fact that American vessels escape from the berth dues applied to the vessels of all other nationalities. There results on the one hand a prejudice which is not negligible for the Company entrusted with the exploitation of the port and on the other hand a privilege for the American flag as compared with other flags.

You are not unaware of the efforts made by the Concessionary Company of the works of the port to realize in Tangier the improvements expected by shipping and looked forward to by Tangier merchants; these efforts are of an onerous nature and oblige the Company to neglect no possible resource; it is therefore very desirous to see the concession tariffs relating to berths in the harbor made applicable to American nationals.

Prior to June 18th, 1925, on which date commenced the provisional exploitation by the Tangier Port Company, vessels were subjected, on taking up stations in the bay, to sojourn dues (2 Francs per vessel and per call at the port) and to anchorage dues (20 Francs); these dues being invariably added together and combined in practice, the aggregate charge was 22 Francs.

In the "Cahier des Charges" of the Company, berth (or sojourn) dues alone are contemplated, in conformity moreover with the spirit of the Act of Algeciras which, in its Article 70, appears to have as-

simulated the two terms "anchorage" and "sojourn" (berth). These berth dues are actually Francs 0.14 per ton and per journey (if paid by annual subscription Francs 2.10 per ton per year). At the end of the year vessels are granted a rebate calculated as follows:—

From	150	to	135	calls	at the	port	.....	5%
"	135	"	120	"	"	"	.....	10%
"	120	"	105	"	"	"	.....	15%
"	105	"	90	"	"	"	.....	20%
"	90	"	75	"	"	"	.....	25%
"	75	"	60	"	"	"	.....	30%
"	60	"	45	"	"	"	.....	35%
"	45	"	30	"	"	"	.....	40%
"	30	"	20	"	"	"	.....	45%
Below	20			"	"	"	.....

For tourist vessels and those which effect at Tangier commercial operations other than the landing and embarkation of passengers and their baggage, including personal automobiles and furniture, the charge of Francs 0.14 is reduced to Francs 0.07 per ton and per journey. For fishing boats registered at the port of Tangier, and for service boats sojourning habitually inside the Port, the berth dues above indicated are substituted by an annual subscription of Francs 4.20 per net ton burden.

I am certain that I respond to the unanimous desire of the exploiters and of the users of the Port of Tangier, in requesting you to be good enough to obtain from your Government, as the latter has obligingly done with respect to other taxes created in Tangier, the authorization to render applicable the tariff of berth dues to American vessels putting into the port of Tangier.

I express this desire to you also in the name of the Shereefian Government and in my capacity as Minister for Foreign Affairs of His Majesty the Sultan who is extremely anxious to see the Port of Tangier develop and that organization adapt itself to the needs of modern navigation.

Please accept [etc.]

LUCIEN SAINT

881.843/5 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

WASHINGTON, June 6, 1929—5 p.m.

11. Your despatch No. 389, May 7, 1929. It is not clear to Department when and how tariff of Tangier Port Concession Company was originally effected. If by decree, as in case of new tariff which was subject of Agency's despatch No. 286, August 12, 1924,⁶⁸ mail copy.

STIMSON

⁶⁸ Not printed.

881.843/6

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 403

TANGIER, June 12, 1929.

[Received July 2.]

SIR: I have the honor to acknowledge the receipt of the Department's cable No. 11, dated June 6th, 1929, 5 p.m., inquiring as to the method by which the tariff of the Tangier Port Concession Company was effected.

In reply, I would inform the Department that the Tariff of Berth Dues, substituting the changes mentioned in the Act of Algeciras for sojourn and anchorage dues, referred to in my Despatch No. 389 of May 7th, 1929, were not included in the Vizirial Decree instituting the new tariff which was the subject of this Diplomatic Agency's Despatch No. 286 of August 12th, 1924.⁶⁹

The "Cahier des Charges" of the Tangier Port Concession sets forth a table of the maximum harbor dues and port charges which may be levied by the Tangier Port Concession Company. In the "Cahier des Charges," as revised for the purpose of accommodating the concession to the Convention of 1923 respecting the International Regime for Tangier, a clause was inserted to the effect that the Tangier Port Commission, created under Article 41 of the Tangier Convention, must approve any proposition of the maximum tariffs of the aforementioned "Cahier des Charges," which the Port Concession Company might propose to apply.

These tariffs have undergone various changes since the institution of the "International" regime, but the printed tariff annexed hereto, in the French text,⁶⁹ contains the scale of charges, in operation at the present time, which have received the approval of the Tangier Port Commission. A practical translation in English of this tariff will be found in a report from this office, dated September 15th, 1928,⁶⁹ entitled: "Data Regarding Foreign Ports," drawn up in reply to the Department's Instruction of May 24th, 1928, (File No. 800.1561/1 [11]).⁶⁹ This tariff of charges is below the maximum tariff as defined in the deed of concession.

So far as concerns the Moorish Government and the Powers which have adhered to the Tangier Convention, the application of a tariff, proposed by the Tangier Port Concession Company within the limits of the charges stipulated in the "Cahier des Charges," becomes legal by the approval of the above mentioned Port Commission, which is composed and functions under the provisions of Article 41 of the Convention Regarding the Organization of the Statute of the Tangier Zone, signed at Paris, December 18th, 1923.

⁶⁹ Not printed.

The tariff must, of course, be approved by the American Government before it can become legally binding on American citizens and proteges.

I have [etc.]

MAXWELL BLAKE

881.843/6

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 563

WASHINGTON, November 16, 1929.

SIR: The Department adverts to your despatch No. 389 of May 7, 1929, and subsequent correspondence, concerning the request of the Maghzen for the application to American vessels of the tariff of the Tangier Port Concession Company, in lieu of the tariff referred to in Article 70 of the Act of Algeciras for sojourn and anchorage dues.

After careful consideration of the alternatives suggested in your comprehensive despatch, the Department has concluded that, in view of the firm position taken by this Government with respect to the irregularities involved in the original award of the port concession and in view of the subsequent irregularities in the conduct of the concession, as reported in your despatch under reference, it cannot see its way clear to accede to the request of the Residency General. You are accordingly instructed to reply to the note of April 13th substantially as you have suggested in the first paragraph on page 7 of your despatch of May 7, 1929.⁷¹

It is the opinion of the Department that the action of thus deferring its acquiescence in the application to American vessels of a tariff of dues imposed in conditions which are at variance with the terms of existing treaties, is not inconsistent with the consent, accorded in 1924, to the advance in the Tangier port dues, with the express reservation that such consent was without prejudice to the position which this Government had heretofore taken or might thereafter take regarding the port concession. The consent given in 1924 was to an "arrête" of the Sultan's representative in Tangier, while the dues to whose application consent was asked in the Residency General's note of April 13, 1929, are levied by the Port Concession Company, the legality of whose concession we have firmly protested, and approved by the Tangier Port Commission, established under a Convention to which we have not adhered. Furthermore, the action taken in 1924 was actuated largely by a desire not to obstruct in any way the development of the port of Tangier, despite the irregular manner in which the concession had been awarded. The continued irregularity in the conduct of the concession would make

⁷¹ Paragraph beginning "That I should be instructed," p. 532.

consent inadvisable in the present instance, even if the dues were not levied and collected by the concessionaire.

I am [etc.]

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

RESERVATION OF AMERICAN RIGHTS WITH RESPECT TO PROPOSED
CHANGES IN THE ADMINISTRATION OF CAPE SPARTEL LIGHT⁷²

881.822/137

*The Diplomatic Agent and Consul General at Tangier (Blake) to the
Secretary of State*

No. 345

TANGIER, December 11, 1928.
[Received January 3, 1929.]

SIR: I have the honor to refer to my Despatch No. 76 of March 11th, 1926,⁷³ reporting manoeuvres on the part of the French and of the Shereefian Government, looking to the practical effacement of the International Commission for the Maintenance of the Lighthouse at Cape Spartel, established under the provision of the Convention of 1865,⁷⁴ and to inform the Department that these attempts have recently been renewed.

In a communication addressed to me, as President of the Cape Spartel Commission, Sid Mohammed Tazzi, Sultan's Representative at Tangier, upon the instructions of the Shereefian Government at Rabat, expressed the desire to see the operation and administration of the Lighthouse at Cape Spartel, confided to the Engineer and Technical Advisor of the Maghzen, under a double delegation from the International Commission of Cape Spartel at Tangier, on the one hand, and from the Shereefian Government, on the other.

I appended the following observations to my circular letter which submitted the Maghzen's communication to my Colleagues:—

"I desire, in my capacity as Representative of the United States on the International Commission of the Cape Spartel Lighthouse, to recall to you the position which I have taken on a former occasion in regard to this subject. The proposition, which requires us virtually to relinquish functions specifically attributed to the Commission by the Convention of 1865, would involve a fundamental derogation from the latter. Consequently, the question appears to be placed entirely beyond our competence and to be exclusively of the competence of our Governments. Moreover, all the dispositions which the Maghzen could desire in respect of the proper operation of the modernized Lighthouse appear already to exist, since the Commission has the advantage of being able to avail itself of the assistance of the State Engineer in regard to technical matters. Under these conditions I do not, for my part, see the usefulness of

⁷² Continued from *Foreign Relations*, 1926, vol. II, pp. 743-756.

⁷³ *Ibid.*, p. 743.

⁷⁴ Malloy, *Treaties*, 1776-1909, vol. I, p. 1217.

disturbing the constitutional powers conferred upon the Commission at Tangier by the Convention of 1865. In any event I could only refer the matter to my Government."

My Colleagues on the Commission appear all to agree with the above quoted annotation of the Circular. However, several of them have brought the Maghzen's proposal to the attention of their governments and the matter may therefore again appear in the discussions of the Commission. In such event, I should be grateful for the Department's Instructions, which will presumably be to confirm definitely the position outlined in my Despatch above mentioned and approved by the terms of the Department's cable Instruction No. 3 of April 13th, 1926, 1 p. m.⁷⁵

I have [etc.]

MAXWELL BLAKE

881.822/137

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 502

WASHINGTON, January 17, 1929.

SIR: The Department has received and considered your despatch No. 345 of December 11, 1928, concerning the communication addressed to you, in your capacity as President of the Cape Spartel Commission, by the Sultan's Representative at Tangier, upon the instructions of the Shereefian Government at Rabat, expressing the desire to see the operation and administration of the Lighthouse at Cape Spartel confided to the Engineer and Technical Adviser of the Maghzen, under a double delegation, from the International Commission on the one hand and from the Shereefian Government on the other.

The Department concurs in your observations in the circular letter with which you submitted the communication to your colleagues, and approves of the position which you have taken.

This Government desires that, in accordance with the provisions of the Convention of 1865 concerning the administration and upholding of the Lighthouse at Cape Spartel, the operation and administration of that Lighthouse shall continue to devolve upon the representatives of the contracting powers. You are authorized to take this position in the event that the matter should arise in the discussions of the Commission.

I am [etc.]

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

⁷⁵ *Foreign Relations*, 1926, vol. II, p. 748.

NETHERLANDS

ARBITRATION AGREEMENT WITH THE NETHERLANDS FURTHER EXTENDING THE DURATION OF THE CONVENTION OF MAY 2, 1908¹

Treaty Series No. 786

*Arbitration Agreement Between the United States of America and the Netherlands, Signed at Washington, February 27, 1929*²

The Government of the United States of America and Her Majesty the Queen of the Netherlands, desiring to extend further the period during which the Arbitration Convention concluded between them on May 2, 1908, and extended by the Agreement concluded between the two Governments on May 9, 1914 and further extended by the Agreements concluded by the two Governments on March 8, 1919 and February 13, 1924, shall remain in force, have respectively authorized the undersigned to wit:

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

Dr. J. H. van Roijen, Envoy Extraordinary and Minister Plenipotentiary of Her Majesty the Queen of the Netherlands in Washington, to conclude the following agreement:

ARTICLE I

The Convention of Arbitration of May 2, 1908, between the Government of the United States of America and Her Majesty the Queen of the Netherlands, the duration of which by Article III thereof was fixed at a period of five years from the date of the exchange of ratifications, which period, by the Agreement of May 9, 1914,³ between the two Governments was extended for five years from March 25, 1914, and was extended by the Agreement between them of March 8, 1919,⁴ for the further period of five years from March 25, 1919, and by the Agreement of February 13, 1924,⁵ for the further period of five years from March 25, 1924, is hereby extended and continued

¹ For text of convention, see *Foreign Relations*, 1909, p. 442.

² In English and Dutch; Dutch text not printed. Ratification advised by the Senate, March 2 (legislative day of February 25), 1929; ratified by the President, March 6, 1929; ratified by the Netherlands, April 19, 1929; ratifications exchanged at The Hague, April 25, 1929; proclaimed by the President, April 26, 1929.

³ *Foreign Relations*, 1915, p. 1099.

⁴ *Ibid.*, 1920, vol. II, p. 651.

⁵ *Ibid.*, 1924, vol. II, p. 474.

in force from March 25, 1929, for the further period of one year or until within that year a new arbitration convention shall be brought into force between them.

ARTICLE II

The present Agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen of the Netherlands, and it shall become effective upon the date of the exchange of ratifications, which shall take place at The Hague as soon as possible.

Done in duplicate in the English and Dutch languages at Washington this 27th day of February, 1929.

[SEAL] FRANK B. KELLOGG
[SEAL] J. H. VAN ROIJEN

INTEREST OF THE UNITED STATES IN MAINTAINING EQUAL RIGHTS FOR AMERICAN OIL COMPANIES WITH THOSE OF OTHER COUNTRIES WITH REGARD TO PETROLEUM MINING CONCESSIONS⁶

856d.6363/565

The Secretary of State to the Minister in the Netherlands (Tobin)

No. 650

WASHINGTON, March 27, 1929.

SIR: With reference to the Department's instruction No. 645 of March 14, 1929,⁷ with regard to the interest which Mr. Francis B. Loomis of the Standard Oil of California, had expressed to the Department in obtaining oil concessions in the Netherland Indies, Mr. Loomis has advised the Department that he will shortly proceed to Holland where he will endeavor to obtain for his Company a concession or concessions. You will please render Mr. Loomis such assistance as you may deem appropriate.

I am [etc.]

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

856d.6363/575

The Minister in the Netherlands (Tobin) to the Secretary of State

No. 1873

THE HAGUE, April 29, 1929.

[Received May 11.]

SIR: Referring to the Department's Instruction No. 650 of March 27th, I have the honor to report that Mr. Francis B. Loomis, representing the Standard Oil Company of California, called upon me

⁶ For previous correspondence regarding access to Netherlands petroleum resources, see *Foreign Relations*, 1928, vol. III, pp. 375 ff.

⁷ Not printed.

on April 17th and informed me of the desire of his company to obtain an oil concession in the Netherland East Indies.

Mr. Loomis stated that he had just come from the Dutch Indies, where his company had in the last few years expended some \$75,000 exploring lands alleged to contain mineral oil; that they had located some promising terrains and now wished to get permission to exploit.

I assured Mr. Loomis that I personally and the Legation would lend him every possible assistance in the furthering of his project.

I outlined to him the history of the long and tedious negotiations conducted by the Koloniale Petroleum Company (Standard Oil of New Jersey). I emphasized the importance of conforming to local law by forming a Dutch company and in this relation supplied him with a copy of the articles of incorporation of the Koloniale. I likewise impressed upon him the great desirability of doing everything possible to conciliate Dutch sentiment in favor of his company.

Mr. Loomis spoke of his need for a legal adviser. I suggested to him Dr. J. Limburg and arranged for a meet[ing]. As the Department is aware, Dr. Limburg is a member of the Council of State, an authority on international law and was at one time requested to form an extra-parliamentary government.

At Mr. Loomis' request I approached Dr. Limburg with the suggestion that he should act as the legal adviser of Mr. Loomis and of his company. Dr. Limburg hesitated to accept because, as he informed me, he is a member of the commission which deals in an advisory capacity with applications for oil rights in the Indies. When I assured him, however, that Mr. Loomis expected no more from him than advice as to the conditions of the law relating to such companies, he consented to give Mr. Loomis an interview at the Legation. The result was in so far satisfactory that Dr. Limburg consented to act, at least in the commencement of the affairs of Mr. Loomis' company, as his legal adviser.

Mr. Loomis then requested me to suggest to him the name of some prominent Dutchman who might agree to act as the Managing Director of his Dutch company when and if it should be formed. I suggested to him Mr. J. C. A. Everwijn, a director of the powerful Netherland Trading Company and ex-Minister of the Netherlands to the United States.

At Mr. Loomis' request, I made an appointment for him to meet Mr. Everwijn. Mr. Loomis subsequently told me that Mr. Everwijn at the outset appeared somewhat taken aback by the modest character of the company which Mr. Loomis proposed to form. Mr. Loomis had decided that as the future of the project was somewhat in doubt, it would be a prudent policy for him to expend no more money than was necessary in the organization of the company. He therefore mentioned to Mr. Everwijn a capital sum of a size merely necessary to

comply with the provisions of the law. Mr. Everwijn reserved his decision and requested Mr. Loomis to return after a day or two for further consultation. In the course of the conversation, Mr. Everwijn asked Mr. Loomis if he had not heard the rumor that the oil rights in the Indies had been apportioned between the Royal Dutch and the Standard Oil of New Jersey. Mr. Loomis informed him that he had heard nothing of it.

Mr. Loomis in a subsequent conversation with me suggested that I should myself inquire of the Dutch Colonial Minister if it were true that such a division of the oil district had been made. I told him, however, that I felt I could not properly comply with his request and suggested that he should himself obtain the information either through the officials of the Standard Oil of New Jersey or from the Colonial Office, with whose officers I had already put him in touch. He decided upon the latter course and called upon Dr. Six, Secretary General of the Colonial Ministry. He said that he begged Dr. Six to give him a frank answer unless there were some good reason why he was unable to do so. He told Dr. Six that what he requested from him was such information as might make it clear whether it was fair to allow his company to proceed with the project. He reminded Dr. Six that they had already spent \$75,000 for exploration and that Mr. Loomis himself had twice visited the Indies in the interests of his company. He therefore felt it only just that they should be made aware of any arrangement which would radically affect the possibility of success. He told me that Dr. Six responded with evident unwillingness and in the beginning begged him not to press the matter for another two months. As Mr. Loomis, however, insisted, Dr. Six told him it was true—that there was an arrangement by which the exploitation of the Atjeh districts 1 and 2 was reserved to the Koloniale, the Royal Dutch and the Government. Dr. Six added that this arrangement would be made public after two months.

This information has seemed to satisfy Mr. Loomis that it is hopeless to proceed with his project. He informed me this morning that he intended to leave The Hague in a few days. While he has not definitely assured me that he has given up hopes of securing a concession, I suspect that he has done so. Indeed, he informed me that he was already contemplating an effort to induce the Standard Oil of New Jersey to purchase from his company the reports of the explorations that they had made in Atjeh districts No. 1 and 2. "I should like to think," he said, "that we will get back at least a portion of the money thus expended." He proposes to obtain another interview with Mr. Everwijn and one with Dr. Limburg.

I have [etc.]

RICHARD M. TOBIN

856d.6363/575

The Secretary of State to the Minister in the Netherlands (Tobin)

No. 676

WASHINGTON, May 29, 1929.

SIR: With reference to the Legation's despatch No. 1873, dated April 29, 1929, concerning the visit of Mr. Loomis, of the Standard Oil Company of California, to The Hague and his failure to obtain certain oil concessions in the Netherlands East Indies, your attention is directed to the reported statement of Dr. Six, Secretary General of the Colonial Ministry, that the Atjeh districts Nos. 1 and 2, in which the Standard Oil Company of California was interested, have been reserved for the Koloniale (Standard Oil Company of New Jersey), the Royal Dutch and the Netherland Government, and to the rumor that oil rights in the Indies had been apportioned between the Royal Dutch and the Standard Oil Company of New Jersey.

The Department is interested in Government regulations, restrictions and agreements, private or otherwise, affecting in any way American participation in the exploitation of the oil fields of the Dutch East Indies. You are therefore instructed to investigate discreetly and report as soon as possible whether any such agreement exists, and, if so, who are the parties thereto, and what areas in the Dutch East Indies the agreement covers, particularly whether the whole of the Island of Sumatra or only the Atjeh districts; you will indicate on maps, if possible, the areas giving size and location affected by this agreement or any Government regulation or restriction concerning the exploitation of mineral oil in the Netherlands East Indies.

I am [etc.]

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

856d.6363/583

The Minister in the Netherlands (Tobin) to the Secretary of State

No. 1931

THE HAGUE, June 19, 1929.

[Received July 1.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 676, of May 26 [29], 1929, in regard to certain rumors to the effect that there is an arrangement between the Dutch Government, the Royal Dutch Petroleum Company and the Colonial Petroleum Company (Koloniale) concerning the division of oil lands in the Dutch East Indies which may adversely affect American interests. The Department desires a map showing as far as possible the concessions already granted in Netherland India.

The Department's request for such a map had been anticipated and the Legation is pleased to be able to forward it at once. The map was obtained through the kindness of the engineers of the Koloniale and the late Mr. Horstmann, its director. It has required more than six months to prepare due to the fact that the Legation felt a detailed chart of this kind would be of more value if the areas included in the pending applications were also shown. This caused a long delay as it was necessary to await the arrival in The Hague of the resurveys made after the boundary settlement between the Royal Dutch and the Koloniale mentioned in my confidential despatch No. 1852, of April 11, 1929.⁸ The map is unique and Mr. Horstmann, requested that it should in no way come to the attention of any possible competitors. If this map is made available to the Navy Department and to the Department of Commerce, as the respective Attaches of these Departments at this Legation have requested, it is suggested that this injunction to confidence be carefully pointed out. A study of the map and the enclosed sheet showing the areas in hectares of the concessions granted and pending confirms the statements frequently made to the Legation by Mr. Horstmann that since the Djambi region was closed by virtue of the agreement between the Royal Dutch and the Netherland Indies Government for the establishment of a mutual company to operate in this region, subsequent concessions have been fairly equally divided between Dutch and American interests.

The Department's Instruction under acknowledgment indicated that in some manner the impression has arisen that Mr. Loomis' failure to return with the concessions he desires is due to some exclusive arrangement between the Dutch Government, the Royal Dutch and the Koloniale oil companies for restricting the apportionment of oil rights in the Dutch East Indies. I believe this assumption to be wholly unfounded. The rumors in question were reported to the Department in order that it might know what was in Mr. Loomis' mind. A confirmation of my impression that Mr. Loomis did not put too much faith in these reports is his own statement that he did not ask Mr. Six, the Chief of the Mining Bureau of the Department of Colonies, to confirm or deny them. Needless to say, had I not felt the rumors to be without foundation I would of course have discussed the matter fully in the despatch under reference.

The fact is that Mr. Loomis did not follow the preliminaries necessary to gain concessions. He did not establish a Dutch company; he complied with none of the required legal formalities; he not only never formally applied for a concession, but he did not even put his company legally in a position to do so. In more than one conversation and in writing (see despatch No. 1706, November 22, 1928⁹),

⁸ Not printed.

I emphasized that in order to accomplish the same results as the Standard Oil of New Jersey it would be advisable to adopt the same means they had employed. I am still convinced of the good faith of the Dutch Government in this matter and that if Mr. Loomis was told it would be useless for his company to apply for leases in Atjeh 1 and 2, it was not because these whole regions had been "reserved" for the Koloniale and the Royal Dutch, but because the particular fields in Atjeh in which Mr. Loomis' company was interested, had been allocated some months previously to the Royal Dutch and the Koloniale (see despatches No. 1484, of April 16, 1928 and 1729, of December 17, 1928.⁹) The enclosed map, showing the scattered character of the concessions granted these two companies in the Atjeh districts illustrates the point nicely. That the Dutch Government was not disposed to withdraw the promises given to these two companies which have complied with all the legal formalities and with which it has done business satisfactorily for a number of years, in favor of a company which has done nothing in this way, is not surprising. Briefly stated, when Mr. Loomis reappeared on the scene he found that the fields, which a preliminary survey four years before had shown to be valuable, to be already in the hands of active rivals whose tenacity and persistency had been rewarded by primary consideration in the fields they had so closely watched.

There are still opportunities for American interests in the development of the petroleum resources of the Indies. It is for the Standard Oil of California to decide if it wishes to carry on. Should it conclude to do so, it must be prepared to expend sums sufficient for the necessary prospecting and for the establishment of a substantial Dutch company.

To any one who has followed the struggle of the Koloniale to obtain a foothold in the Dutch East Indies, the suggestion that an agreement exists for the exclusive apportionment of oil rights to which that company is a party is quite untenable. What success the Koloniale has won has come only after years of preparation and hard work and even now, to quote the words of the late Mr. Horstmann: "We apply for all we think we may get but we are never sure how our applications will be received. If our requests are considered favorably they are invariably reduced and even then we must expect negotiations and delays sometimes covering years before final approval is obtained."

In concluding I would like further to point out that such an exclusive arrangement as has been intimated would be next to impossible under the Dutch law, which necessitates parliamentary approval of every concession granted and then only after a contract

⁹ Not printed.

for each concession has passed through more than eight different and independent agencies of the Government. Such an arrangement would therefore presuppose not only an understanding between the Royal Dutch and the Koloniale, two powerful rivals, but also between these various and, in some instances, widely separated departments of the Dutch Government. If any additional proof were needed it would be found in the fact that the Government, as recently as April of this year granted a concession to a private individual having no connection with the Koloniale or the Royal Dutch.

I have not taken up this question with the Dutch Government as I felt that the Department has perhaps been misinformed regarding the situation.

I have [etc.]

RICHARD M. TOBIN

841.6363/359b

*Circular Instruction to Certain American Diplomatic and Consular Officers in the Netherlands and Its Dependencies*¹⁰

WASHINGTON, October 28, 1929.

SIRS: The Department desires to be confidentially informed as to the legal and actual status of British oil companies operating in Dutch-controlled territories, possessions, protectorates, etc., with a view to ascertaining whether any British companies enjoy practical advantages in Dutch territories which are denied to American corporations in such a manner as would constitute effective discrimination against American companies in favor of companies of British nationality.

You are therefore instructed to investigate and report on the following aspects of the conditions under which foreign oil companies operate in your district:

- 1) What are the pertinent local laws and practices, i. e., whether foreign corporations may in fact operate mineral concessions in your district or whether such operations are reserved to Dutch-controlled companies;
- 2) Whether British companies have obtained and are operating mineral concessions in Dutch territory;
- 3) Whether American companies are operating in the same Dutch territory;
- 4) Whether, in case it is found that British companies are operating in Dutch territory, American companies have been refused an opportunity to enter this territory;
- 5) What other restrictions are imposed upon the leasing of land, exploration, production, transportation, storage, export and sale or

¹⁰ On October 23 a similar instruction, *mutatis mutandis*, was sent to certain American diplomatic and consular officers in Great Britain and its dependencies (841.6363/359a).

distribution of petroleum and petroleum products which are effective discriminations against the operations of American companies in favor of British or other foreign oil companies.

Any further information which may seem to you to be pertinent to this subject should also be communicated to the Department.

I am [etc.]

W. R. CASTLE, JR.

856.6363/45

*The Minister in the Netherlands (Diekema) to the Secretary of State*¹¹

No. 10

THE HAGUE, November 26, 1929.

[Received December 13.]

SIR: I have the honor to acknowledge the Department's confidential circular instruction of October 28th last (File No. 841.6363/359b), requesting information as to the legal and actual status of British oil companies operating in Dutch controlled territories with a view to ascertaining whether any British companies enjoy practical advantages in Dutch territories which are denied to American corporations in such a manner as would constitute effective discrimination against American companies in favor of companies of British nationality.

Before taking up the points enumerated in the Department's instruction, I may state that no discrimination in favor of companies of British nationality exists in Dutch territories. This statement is concurred in by the Commercial Attaché and Consul General Hoover.

Foreign corporations can operate mineral concessions in Holland either as branch offices or as companies incorporated under the Dutch law. If the latter alternative is adopted, the majority of the managing directors must be of Dutch nationality. The capital, however, may come entirely from abroad and foreign companies doing business here have found that it facilitates their work to incorporate locally.

The first of the Department's enumerated questions inquires whether foreign corporations may in fact operate mineral concessions or whether such operations are reserved to Dutch controlled companies. There is no oil exploitation in Holland and it is presumed that the situation in the Dutch East Indies will be reported on in detail by the Consul General in Batavia. The Netherland Coloniale Petroleum Company, however, which is affiliated with the Standard Oil Company of New Jersey, maintains an office in The Hague. This company, as the Department is aware, has recently secured large oil concessions from the Dutch East Indian Government. Its principal American representative in Holland informs

¹¹ A similar reply to the Department's instruction of October 23 was received from the Embassy in Great Britain, in despatch No. 468, December 3, 1929; not printed (856d.6363/597).

me that no discrimination exists against his company in favor of British companies, either here or in the East Indies.

The only mineral which is obtained to any extent in Holland is coal and that exists only in the southeastern part of the country. All sub-soil rights belong to the government but in the past several concessions have been given to foreign interests which usually do business through subsidiaries incorporated under Dutch law. The principal foreign concessionaire is the Maatschappij tot Exploitatie van Limburgsche Steenkolenmijnen Genaamd Oranje-Nassau-Mijnen, the capital of which is entirely French. This company produces some two million tons of coal a year and two other small companies, with largely Belgian capital, produce a half million tons. There are no British or American companies engaged in coal mining in Holland. When the Dutch government realized that coal could be mined profitably, it ceased granting concessions to companies of any nationality and commenced mining on its own account, with the result that the present output of the government mines amounts to about six million tons annually.

As regards the leasing of land, exploitation, production, transportation, storage, export and selling or distribution of petroleum and petroleum products, there is no discrimination against the operations of American companies in favor of British or other foreign oil companies. The American Petroleum Company, the Sinclair Oil Corporation, and the Texas Oil Corporation are engaged in Holland in the marketing of oil. They all do business through subsidiaries which are incorporated locally. There is no discrimination against these companies in favor of the British Petroleum Company—a subsidiary of the Anglo-Persian—or in favor of any other British company.

I have [etc.]

GERRIT J. DIEKEMA

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA¹

817.00/6165 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 3, 1929—4 p. m.

[Received 8:07 p. m.]

6. Admiral Sellers, General Feland, General Beadle, Munro² and I called on President Moncada this afternoon to discuss with him the recommendations which the Admiral wished to make regarding the number of marines to be retained here for the present. The Admiral stated that he proposed to recommend that the force be reduced to 3,500 men for the present upon the understanding that the Nicaraguan Government would make every effort to increase and strengthen the Guardia Nacional so as to permit a further reduction when the guardia had demonstrated its ability to assume an added share of responsibility for the situation in the north.

The President said that he fully concurred in this recommendation. He was glad to have as many marines retained here as we might wish and for as long a time as we considered desirable. He stated however that he wished himself to assume more of the responsibility for checking banditry in the north and to organize a Nicaraguan force of about 500 carefully selected volunteers who would conduct an active campaign against Sandino and whose operations would make it unnecessary for the marines to continue their present active field work. This force would merely be a temporary expedient to be disbanded as soon as order was restored and he would wish to have it placed under guardia and marine officers. He felt that the operations of this force would make possible a very much larger reduction of the marines in the near future.

The President also said that he desired to make the guardia more efficient principally by more careful selection of its members. He expressed admiration for the work already done by the organization

¹ Continued from *Foreign Relations*, 1928, vol. III, pp. 559-592.

² Rear Admiral David Foote Sellers, U. S. N., Commander of the Special Service Squadron; Brigadier General Logan Feland, U. S. M. C., Commander of the Second Brigade, U. S. Marines; Brigadier General Elias R. Beadle, Chief of the Guardia Nacional of Nicaragua; Dana G. Munro, Foreign Service Inspector.

but said that he thought it would require two years to bring it to the highest level of efficiency. He expressed particular interest in the establishment of a school for officers and said that he contemplated placing the appointment of all local police chiefs and other police officials under the control of the guardia. He said that he would always wish to have American officers in this organization.

As a result of this conversation the Admiral is recommending that the marine forces here be reduced to 3,500 men which he considers sufficient to continue the work of maintaining order in the interior and the present active campaign against outlaws in the north.

EBERHARDT

817.00/6177 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 9, 1929—2 p.m.

[Received 6:11 p. m.]

17. In connection with his plan to have the volunteer forces assume a large part of the burden of cleaning up the scattered outlaw bands still marauding in the north, President Moncada wishes to establish martial law in the departments affected. He and General Feland feel that this would greatly facilitate their operations because it would make it possible to arrest and hold outlaw agents and spies who now come and go freely, obtaining information about troop movements and maintaining contact with sympathizers in the interior. It would also relieve both the marines and the guardia of the embarrassment resulting from the absence of legal authorization for holding outlaw prisoners.

General Feland states that the marines would have no direct part in the enforcement of this martial law except to turn over to guardia officers any prisoners who might be taken with the evidence. They would however be in a position to prevent any serious abuses or unnecessarily severe action by the Nicaraguan leaders in charge of native volunteer patrols.

Since the establishment of martial law would be very helpful as a military measure and is an essential part of General Moncada's plan to clean up the bandit situation through direct efforts of the Nicaraguan Government, I feel that we should consent to it unless the Department sees some objection. Please instruct as soon as possible.

EBERHARDT

817.00/6177 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, January 15, 1929—noon.

8. Your 17, January 9, 2 p.m. It is the feeling of the Department that this is a matter in which the decision and responsibility should rest with the Government of Nicaragua alone. If martial law is established, it should be carried out by the authorities of Nicaragua only.

KELLOGG

817.00/6185 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 21, 1929—4 p. m.

[Received 7:28 p. m.]

24. Information contained in Department's telegram 8, January 15, noon, has been conveyed to General Feland. Congress is now in session and President Moncada proposes to ask tomorrow that it declare martial law for the Departments of Matagalpa, Jinotega, Esteli and Nueva Segovia.³

EBERHARDT

817.00/6233a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, March 12, 1929—6 p. m.

35. Practically no information has been received recently from the Navy Department with respect to the military situation in Nicaragua. The Department desires, therefore, that you should report all developments of importance and that you should send from time to time general reports describing the military situation. Any such report when marked strictly confidential will be regarded as for the confidential information of the Department of State only.

Especially would the Department like to have an early mail report on the operations of the volunteer forces which were organized in January and to know the details regarding the capture and execution of Jiron. The Department has been somewhat concerned to learn from the press that a leader of the type of Escamilla is in charge of a pa-

³ In telegram No. 40, February 4, 4 p. m. (not printed), the Legation reported that the law declaring martial law (*estado de sitio*) had been signed by the President on February 2 to go into effect immediately (817.00/6199). In subsequent communications (not printed), dated April 11, June 17, August 8, October 4, and December 7 respectively, the Legation reported that the law had been extended for periods of 60 days (817.00/6257, 6359, 6395, 6431, 6509).

trol and is ordering executions. The Department would be pleased to receive your personal and confidential views on this matter.

KELLOGG

817.00/6244

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 938

MANAGUA, March 16, 1929.

[Received March 27.]

SIR: With reference to the Department's telegram No. 35 of March 12, 1929 (6 p. m.), I have the honor to report that, as pointed out in my despatch No. 908 of January 31, 1929,⁴ President Moncada after taking office wished to assume more of the responsibility for checking banditry in the northern departments and to organize a small non-permanent force of carefully selected native volunteers under Nicaraguan chiefs to conduct an active campaign against the outlaws. This force was organized and at the present time consists of approximately three hundred men selected from a greater number of volunteers. It is divided into three groups and the President chose three Nicaraguan Generals to lead them. The Generals in command of the three columns at the present time are Juan Escamilla, a Mexican; Felipe Flores, a Nicaraguan; and Alejandro Plata, a Honduran. These three Generals fought in the recent revolution⁵ with General Moncada, who has expressed confidence in their ability to successfully carry on operations for the suppression of bandits.

These groups of volunteers are administered by the Guardia Nacional, which has charge of the expenditure of the funds appropriated for their support and equipment and which conducted a short preliminary training before the departure of the members for the North. They operate in conjunction with the Marines and the Guardia in combined operations under the tactical control of the Commanding General of the Marine Brigade and the subordinates designated by the latter. They are at all times directed and assisted by the Marine forces which are always in close support.

One group has been operating in Eastern Segovia, another in Western Segovia and the third in the area northeast of Jinotega. Recently the first two mentioned groups were in Eastern Segovia and in conjunction with the Marines operated effectively in that section. The third group after having operated some time in the Jinotega area, was sent to the section northeast of Yalí, and has done good work in conjunction with the Marines.

General Logan Feland commanding the Marine Brigade in Nicaragua states that these forces have operated in a most efficient and

⁴ Not printed.

⁵ See *Foreign Relations*, 1927, vol. III, pp. 285 ff.

aggressive manner, and that their services have been extremely valuable in the outlaw-infested regions principally because their knowledge of the people, their language and customs and the nature of the country has enabled them to detect and apprehend the outlaw spies, agents and sympathizers of the Sandino bands. He is also of the opinion that the organization of these volunteer forces has made a favorable impression on the ignorant people of the northern departments in that it has made them realize that the Nicaraguan Government is taking a direct interest in the wiping out of banditry and in the pacification of the country.

Early in February General Jirón, a Guatemalan, was captured by the Marine forces. He stated that he had abandoned Sandino and that he was on his way out of the country. He also said that a number of other leaders had already given up or were on the point of giving up their activities, and subsequent events tend to confirm that information. He acted as a guide for the Marines in later operations, and was subsequently taken to Ocotal for the purpose of obtaining as much information as possible from him. Late in February, under a promise of clemency in the form of a parole providing he was instrumental in clearing of bandits the Murra area with which he was familiar, he acted as a guide with the volunteer group under the leadership of General Escamilla. On March sixth General Escamilla reported to President Moncada, that after a trial by court-martial authorized by the latter, he had executed Jirón for treacherously misleading the Nicaraguan column. It will be recalled that Jirón was the leader who conducted the raid on the mining area in April, 1928, in which a large amount of American and foreign property was destroyed and stolen. According to reports from police officials and Marine officers, he robbed numbers of Nicaraguans leaving them destitute and starving, and he also made Mr. Marshall a prisoner and held him in captivity until his death.

As the Department was informed in my despatch No. 911 of February 7, 1929,⁶ the Nicaraguan Congress recently passed a bill providing for a state of martial law (*estado de sitio*) in the four bandit-infested departments of the North. I have been assured by General Feland that the members of the Marine Brigade in Nicaragua take no part whatever in the enforcement of martial law. It is carried out entirely by Nicaraguan officials in accordance with the Nicaraguan martial law code. When the Marines capture a suspected person, he is turned over to the appropriate Nicaraguan officials. It is understood that the Government has appointed two *fiscales de guerra*, one for the northern area at Ocotal and the other at Jinotega for cases arising in that district. The execution of Jirón

⁶ Not printed.

was apparently a purely Nicaraguan affair, conducted entirely by Nicaraguan officials, and the sentence was carried out as the result of a decision of a court-martial which acted under the authorization of President Moncada.

With reference to the military situation, it may be stated that immediately after the election it was apparent that the morale of the outlaws had reached a low point. They were poorly clad, were experiencing difficulty in securing the necessary food supplies, were short of ammunition and were evidently beginning to understand that Sandino had no real mission. Statements of deserters were to the effect that they realized the futility of sustaining their cause any longer. The so-called patriotic motives of Sandino were no longer evident to the most ignorant members of the outlaw bands, and whereas Sandino had formerly obtained and held his following by persuasive methods, he had recently resorted to compulsory means and to threats of punishment. Intensive patrol operations were then conducted by the Marines and Guardia on a greater scale than was possible during the electoral period. The results to date indicate a further and more complete disintegration of the outlaw structure. Eastern Segovia and the area northeast of Yalí have been almost entirely cleared of outlaws, and reports indicate that a large number of the foreign bandits with their leaders have left the country. Banditry is apparently no longer as lucrative a profession as formerly, and it is believed that the outlaws have come to realize this. General Feland is of the opinion that as soon as the Guardia Nacional is able to assume the function of effectively policing the northern departments, it will be possible to further materially reduce the number of Marines stationed in Nicaragua.

At the present time the bandit leader, Altamirano, is in the area northeast of Jinotega, and indications are that his band has split into small groups. He is evidently a professional bandit, and the Commanding General of the Marine Brigade does not believe that he has ever concerned himself with the so-called patriotic ideals of Sandino, and that while he has cooperated with the latter, he has done so merely as a matter of expediency. The leaders, Ortez and Salgado, have recently been reliably reported to be moving in the direction of the Río Negro (Department of Chinandega), and the information is such that it would indicate a very strong possibility that they are attempting to reach the Gulf of Fonseca, probably with the intention of embarking for some other country. A few very small groups still exist in the San Juan de Telpaneca district.

I have [etc.]

CHARLES C. EBERHARDT

817.00/6236 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 17, 1929—10 a. m.

[Received 9 p. m.]

72. Brigade headquarters reports that on March 14 marine patrol encountered a group of bandits at Department of Chinandega, two miles west of San Juan de Limay. One bandit killed. On March 15th combined marine and *voluntario* force encountered bandits in the same vicinity, killing four and capturing three. No marine or *voluntario* casualties. Marines believe that bandits constituted Salgado's main group and that they crossed into Honduras about March 16th.

Repeated to Tegucigalpa.

EBERHARDT

815.00/4391 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, April 1, 1929—9 p. m.

[Received April 2—1:21 a. m.]

30. I have received note dated today from the Foreign Office, signed by the Subsecretary:

"Following instructions of His Excellency the President of the Republic, I have the honor to inform Your Excellency that my Government has learned, from private sources, that the North American military forces in Nicaragua wish to provoke a conflict with Honduras.

My Government will be grateful to Your Excellency if you will investigate this matter.

Awaiting, et cetera."

I had a conference this afternoon with the President of the Republic just before this note was received and he did not mention this matter.

Repeated to Managua.

SUMMERLIN

815.00/4391 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, April 2, 1929—1 p. m.

26. Your 30, April 1, 9 p. m. In reply to the Sub-Secretary's note you may inform him that this Department has received no information whatever which would indicate that there was any basis for such a preposterous report. The American forces in Nicaragua have always had instructions scrupulously to respect the territory of Honduras, and

it is believed that they have made every effort to maintain friendly relations with the Honduran border authorities, many of whom have extended to them a cooperation which has been deeply appreciated. You will request that the Honduran Government furnish to you all the information upon which these very grave charges against the American forces in Nicaragua are based.

A report on this subject is being requested from Managua.

STIMSON

815.00/4391 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 2, 1929—1 p. m.

46. Referring to telegram No. 30, April 1, 9 p. m. from Legation at Tegucigalpa. The Department is replying as follows:

[Here follows substance of telegram No. 26, April 2, 1 p. m., to the Minister in Honduras printed *supra*.]

Please inform the Department at once whether there has been any friction along the frontier which would afford a basis for the statements of the Honduran Government.

STIMSON

815.00/4392 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 3, 1929—noon.

[Received 3:40 p. m.]

83. Department's 46, April 2, 1 p. m. Brigade commander reports that there has been absolutely no friction along the frontier. He states that majority of followers of Salgado and Ortez are Hondurans and when hard pressed by marines these men cross into Honduras and their many friends there immediately report to Tegucigalpa that marines have invaded Honduras. He reports that General Mendoza is the only Honduran leader who is cooperating with marines.

Repeated to Tegucigalpa.

EBERHARDT

715.1715/313 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 3, 1929—3 p. m.

[Received 8:05 p. m.]

84. President Moncada has furnished me with a copy of the following telegram, dated April 2nd, which he sent to the President of Honduras:

"I beg of you to take into consideration the costs to both countries of the troops stationed on the border. The sooner we terminate this

abnormal situation the less danger there will be for us in the interior and the exterior.⁷ Partial compliants [*compliance?*] injure only us, I beg of you to cooperate in the peace of both republics. I shall always be the best friend of Honduras. If our constitutions prevent the crossing of frontiers and if for this reason we are unable to end the disaster, God save both countries. Hatred of the Americans blinds many, eventually that hatred might well carry us to disaster."

Repeated to Tegucigalpa.

EBERHARDT

815.00/4399

The Minister in Honduras (Summerlin) to the Secretary of State

No. 848

TEGUCIGALPA, April 6, 1929.

[Received April 17.]

SIR: With reference to my telegram No. 33 of April 5, 11 a. m.,⁸ giving the substance of a telegram from General José Sánchez to the President of the Republic relative to the activities of Sandino's Jefes Salgado and Ortez and stating that General Sánchez was in possession of a bomb dropped from American airplanes at Las Limas, I have the honor to transmit herewith a copy and translation of a note from the Foreign Office including a second telegram on the subject from General Sánchez.⁸

Although neither of the notes transmitting these telegrams mentions the Foreign Office's note of April 1, last, a translation of which was forwarded in my telegram No. 30 of April 1, 9 p. m., nor my reply thereto written in compliance with the Department's telegram No. 26 of April 2, 1 p. m., they are both doubtless meant as substantiation of the charges that the American Forces in Nicaragua desire to promote a conflict with Honduras.

President Mejía Colindres has sent Señor Blas Henriquez, Sub-secretary of the Interior, out to the points in question on the frontier to make an investigation and I do not expect a reply to my note until his report to the President has been made.

Inasmuch as the Honduran Government is continually receiving exaggerated reports from the Honduran-Nicaraguan frontier, I place very little if any credence in the charges made in these telegrams.

I have [etc.]

GEORGE T. SUMMERLIN

⁷ See vol. I, pp. 976 ff.

⁸ Not printed.

715.1715/314 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 8, 1929—9 a. m.

[Received 2:45 p. m.]

89. Legation's April 3, 3 p. m. Nicaraguan Government has furnished Legation with a copy of the following reply, dated April 2nd, from the President of Honduras to the telegram of President [Moncada?]:

"I have been considering for some time the very just motives which Your Excellency has expressed to me; I have desired still more not only to fulfill what I consider my international obligations but to strengthen the strong social, personal and political ties which have united Your Excellency to me for a long time prior to the official [position] which our respective peoples have entrusted to us. You should have absolute faith in the sincerity of those sentiments and those aspirations. Unfortunately great happenings at the moment, which wound the sovereignty of my country and the dignity of my people who have confided in me the direction of their destinies, oblige me to cordially request Your Excellency to please give urgent instructions for the regular forces of your Government to retire from our territory and avoid any invasion which may give rise to unfortunate consequences. I have given instructions to the [forces] of my Government to notify your [forces] in the sense indicated and to attack the Sandinista revolutionists if they do not give up their arms and surrender quietly. Your Excellency must be convinced with intimate and profound conviction that my Government will fulfill its international obligations and will do everything to make tangible the sympathies which within the law and the bonds of mutual respect friendly governments should have towards one another and that I regret, Excellency, both officially and personally the special reasons to which I have referred."

The Foreign Office requests the foregoing telegram be brought to the attention of the Department in order that if the Department was willing the brigade commander be given instructions to avoid friction with the Government of Honduras.

I have discussed this matter with the brigade commander who assures me that the Honduran border is being respected by the troops engaged in combined operations under his command including the marines, guardia and volunteers.

Repeated Tegucigalpa.

EBERHARDT

817.00/6252 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 9, 1929—9 a. m.

[Received 2:37 p. m.]

94. The brigade commander sent the following telegram to commander special service squadron today:

“Referring to press despatch this morning from Tegucigalpa concerning bombing of Las Limas. On March 31st while aviators were working planes of our border patrol near Brajil they were fired on by outlaws a few hundred yards to the north, and one plane was hit. Aviators immediately bombed and dispersed this group. There is but one house in that vicinity. As far as is known no representation was made by Honduran Government to the Nicaraguan Government or our Legation. Forces of all concerned are cooperating and such cooperation recently resulted in dispersing Salgado’s group and with assistance of our forces from Nicaraguan side Honduran chief of border forces, General Sanchez, reports he is in pursuit of other group under Orteiz. Sanchez says bandits were in Las Limas April 3rd and such facts were confirmed by our forces. Limas and Brajil are so close to border that both countries claim them. There are no officials of either Government in either place mentioned.”

Repeated to Tegucigalpa.

EBERHARDT

715.1715/314 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 9, 1929—2 p. m.

47. Legation’s eighty-nine, April 8, 9 a. m. The Department assumes that you have conveyed to President Moncada the assurances given by the Brigade Commander as reported in the last paragraph of your telegram.

STIMSON

715.1715/314 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, April 9, 1929—2 p. m.

28. You may supplement your statements to the Honduran Government based on the Department’s twenty-six, April 2, 1 p. m., with the information contained in the last paragraph of Minister Eberhardt’s message of April 8, 9 a. m. which was repeated to your mission.

STIMSON

817.00/6262a : Telegram

*The Secretary of State to the Minister in Nicaragua (Eberhardt)*⁹

WASHINGTON, April 13, 1929—6 p. m.

53. Press reports that a conference is being held on the frontier between high officials of the Honduran Government and American Marine officers for the purpose of agreeing on measures to prevent "further invasions of Honduran territory". Please keep the Department fully informed about this matter.

STIMSON

817.00/6265 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, April 15, 1929—11 a. m.

[Received 3:20 p. m.]

39. Department's telegram number 31, April 13, 6 p. m.¹⁰ In view of the apparently exaggerated reports which have been telegraphed by Honduran officials stationed on or near the Nicaraguan border, President Mejia sent the Subsecretary of the Interior some days ago to the frontier districts to investigate and report the facts in the matter. It is possible that this official has conferred with Marine Corps officials, but I was informed at the Foreign Office this morning that no report has yet been received from him.

Please see my despatch number 848 of April 6th.¹¹

SUMMERLIN

817.00/6263 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 15, 1929—11 a. m.

[Received 3:25 p. m.]

104. Your 53 of April 13, 6 p. m. Office of brigade commander states that the only conference held was that of April 6th near Las Manos when chiefs of border patrols of the two countries met to discuss plans for closer and more effective cooperation towards stamping out banditry along the border with the gratifying results reported in the Legation's 94, April 9, 9 a. m. The only official of either Government present was the Subsecretary of Gobernacion of Honduras and there was neither complaint nor discussion of past or "further invasion of Honduranean territory".

EBERHARDT

⁹ The same on the same date to the Minister in Honduras as telegram No. 31.

¹⁰ See footnote 9.

¹¹ Not printed.

817.00/6269 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 17, 1929—11 a. m.

[Received 5:16 p. m.]

108. The following on the military situation:

Brigade commander reports that the dispersal of the Salgado and Sanchez groups has been confirmed and that other chiefs including Maldonado, Gomez, Gonzalez, and Escalante are abandoning operations. Three other colonels have been granted amnesty by Honduras. Ortiz is in Honduras and Sandino is believed to be there. Altamirano and a few very small groups are being hard pressed. In general the military situation is excellent.

Brigade commander expressed hope at weekly conference yesterday that a gradual reduction of from five hundred to one thousand marines might be possible by July. He said that the exact number would of course depend on the bandit situation and the development of the guardia.

Mobile battalion of two hundred guardia is on its way to Jinotega. It will operate in the Pena Blanca area in groups of fifty.

McDougal¹² is taking measures to stimulate recruiting in the Guardia.

Dunlap¹³ and McDougal have been ordered to Corinto to confer with Admiral Sellers who arrived there last night. General Williams¹⁴ is reported due at Corinto today. Admiral Sellers does not intend to visit Managua.

EBERHARDT

817.00/6276 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 19, 1929—4 p. m.

[Received 7:47 p. m.]

114. Reference Legation's 6, January 3, 4 p. m., and 108 of April 17, 11 a. m., last paragraph.

Admiral Sellers following conference in Corinto with General Williams, Colonel Dunlap and Colonel McDougal sent me a memorandum expressing his intention to recommend to the Navy Department a further reduction in the marine forces in Nicaragua of approximately 800 men and a corresponding number of officers.

¹² Douglas C. McDougal, Chief of the Guardia Nacional of Nicaragua.

¹³ Robert Dunlap, Commander of the Northern Area of Nicaragua.

¹⁴ Brigadier General Dion Williams, U. S. M. C., Commander of the Second Brigade in Nicaragua.

I called upon the President this morning accompanied by General Williams, Colonel Dunlap, Colonel McDougal and Mr. Beaulac¹⁵ and left President Moncada a copy of the Admiral's memorandum, expressing at the same time my concurrence. President Moncada stated that the memorandum also met with his approval. I explained to him that the reduction would probably be gradual and would be effected by July 1st, stressing the fact that this would depend of course upon the military situation and the development of the guardia. He concurred in this. Admiral Sellers is being advised through the brigade commander.

EBERHARDT

817.00/6287 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 29, 1929—3 p. m.

[Received 6:20 p. m.]

122. Orders issued for discontinuance of all marine posts on the Coco River from the Poteca River eastward. Several other posts in the eastern area also being abandoned. Fifteen officers and two hundred and fifty men being withdrawn tomorrow on the transport *Bridge*. It is anticipated that by July 1st marine forces will be reduced to twenty-five hundred regular forces and three hundred aviation.

EBERHARDT

817.00/6305

The Secretary of State to the Minister in Nicaragua (Eberhardt)

No. 508

WASHINGTON, May 6, 1929.

The Department transcribes below two paragraphs of a report dated at San José, Costa Rica, April 12, 1929, prepared by the Military Attaché, Major Fred T. Cruse, with respect to the activities of Sandino.

The Department will be pleased to receive from the Legation any comment it may desire to make with reference to the reports, mentioned in the second paragraph, by Escamilla, Plata, and Flores:

"The original Sandino situation, the one which might have kept the United States in trouble with Latin America for years, has ceased to exist. Sandino, as a Latin-American hero fighting the whole power of the United States as represented by the Marines, is finished. The jolt that did his heroic standing the most harm was the reports made by the commanders of Moncada's three volunteer forces after their first campaign in Nueva Segovia.

¹⁵ Willard L. Beaulac, Second Secretary of Legation.

Of these three commanders Escamilla is a Mexican, Plata a Honduran, and Flores a Nicaraguan. All three, in separate reports, stated that the appalling destruction in the Segovias had been done, not by the Marines, but by Sandino and his men; that these outrages were senseless and unnecessary and clearly committed by the worst kind of bandits; and finally that since the Chipote fight in December 1927, Sandino and his men had not been fighting the marines at all, but simply harrying a lot of defenseless people of his own race. There is no doubt that all three commanders were genuinely shocked at the condition of the country which had been occupied by the Sandino element."

[File copy not signed]

817.00/6280

The Secretary of State to the Minister in Nicaragua (Eberhardt)

No. 509

WASHINGTON, May 6, 1929.

SIR: Supplementing the Department's telegram No. 53 of April 13, 6 p. m., and with reference to the Legation's telegram in reply, No. 104 dated April 15, 11 a. m., concerning aerial military operations on the Honduran-Nicaraguan frontier, there is transmitted herewith a copy of despatch No. 856, dated April 16, 1929,¹⁸ together with its enclosures, that has been received from the American Legation at Tegucigalpa on this subject.

In the Legation's telegram above cited it is stated that at the conference at Las Manos on April 6 "there was neither complaint nor discussion of past or further invasion of Honduran territory". In the report to the President of Honduras made by the Subsecretary of the Interior, Señor José Blas Henríquez, as transcribed in the enclosure to the accompanying despatch, there is quoted the text of an agreement said to have been signed at the conference at Las Manos by the representatives of Honduras, of Nicaragua, and of the United States Marine Forces, Article 1 of which states that the Nicaraguan and Marine forces will from that date onward cease the pursuit of Sandinistas on the Honduran frontier with American airplanes in view of the damage caused within Honduran territory by such operations.

You are requested to obtain from the Brigade Commander and forward to the Department a full report of this conference and of the agreement entered into with the Honduran representatives.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

¹⁸ Not printed.

817.00/6300 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 8, 1929—9 a. m.

[Received 12 noon.]

133. President Moncada told me yesterday that he is greatly perturbed by the failure of the Honduran Government to prevent sympathizers in Honduras from furnishing arms and other material and assistance to Nicaraguan rebels along the Honduran frontier, especially to rebels who often escape unarmed into Honduras and subsequently return armed to Nicaragua. He said that his repeated representations to the Honduran Government and his personal appeal to the President of Honduras have not improved the situation and that consequently he desires to present the matter to the Department in the hope that it may make appropriate representations to the Honduran Government.

[Paraphrase.] President Moncada pointed out that military operations in Nicaragua are being directed by American officers and for that reason he is not disposed to interfere and adopt the vigorous measures along the frontier which he believes to be essential . . . [End paraphrase.]

EBERHARDT

817.00/6320

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 983

MANAGUA, May 10, 1929.

[Received May 24.]

SIR: I have the honor to transmit herewith a copy of a memorandum, dated May 6, 1929, from the Commander of the Second Brigade, U. S. M. C., regarding the military situation in Nicaragua on that date.

I have [etc.]

MATTHEW E. HANNA

[Enclosure]

The Commander of the Second Brigade, U. S. M. C. (Williams), to the Minister in Nicaragua (Eberhardt)

MANAGUA, 6 May, 1929.

PRESENT PERSONNEL SITUATION

The strength of the forces ashore at present is about 3100, exclusive of Aviation. It is the present intention of the Commanding General in accordance with recommendations submitted by the Admiral to the Navy Department to effect a further gradual reduction between now and July 1st of about 600. No reduction of Aviation is contemplated

prior to July 1st but East Coast Aviation will be returned to Managua by June 1st.

In Eastern Area all stations have been ordered discontinued except Puerto Cabezas, Bluefields, El Gallo and the mining detachments in the La Lux [*Luz?*] and Pis Pis areas.

Several Southern Area stations have been discontinued.

Several Northern Area stations are being taken over by Guardia.

Bluefields at present has 6 officers and 53 Guardia and the Guardia is sending an experienced and capable field officer to that place today. Bluefields is the Headquarters of Guardia in the Eastern Area and very shortly it is planned to take Marines away from that place.

It is believed that all changes will be effected and reductions contemplated will be made without embarrassment to anyone concerned.

GUARDIA SITUATION

The Guardia National shows continued and what is believed to be lasting improvement.

The energetic measures taken by General McDougal and his appreciation of what the true role of the Guardia should be, has contributed greatly to our recent successes.

VOLUNTEER FORCES

Fifty Volunteers were mustered out about a month ago. The Plata group will be mustered out within the next few days.

The Flores group will be mustered out before the end of the month.

When the Plata group is mustered out about 150 Volunteers will remain. It is believed that the complete mustering out of the Volunteers will be accomplished prior to June 30th.

When the above is accomplished steps should be taken by those concerned to have the decree on martial law put out of force.

The Volunteers have done good work. The work has been of such a nature that Volunteers were more suitable for it than Guardia or Marines.

There was little abuse of authority and but 4 bandits were executed in the field.

PRESENT MILITARY SITUATION

The military situation can be said without fear of contradiction to be excellent, and this country has never been in such a peaceful state.

There are but two organized bands in existence at present, Ortez' and Altamirano's.

Ortez has been and is still in Honduras with a small band of about 30 men.

Altamirano's band has suffered considerably in the last few weeks. Several members of his band have been captured and killed and some were executed.

It is not believed that there is any organized group in alliance with Sandino at present, or that any bandits are in the field for Sandino patriotic motives.

It is fairly certain that Sandino is out of this country and his exit will most certainly result in the loss of any remaining prestige he might have had.

There are a few small groups in and around Telpaneca who assemble often, commit a few minor depredations and then disperse. They are Liberals and being such are difficult to apprehend.

It should be realized that it will be very difficult to stamp out all banditry. There has always been banditry in Nicaragua as there is in other Central American countries.

CONCLUSION

The military situation at present is such as to be susceptible of little improvement.

DION WILLIAMS

817.00/6325

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1008

MANAGUA, May 24, 1929.

[Received May 29.]

SIR: I have the honor to report that on a number of occasions recently when I have been in conference with President Moncada he has brought up the subject of bandit activities and, in the course of his remarks, has pointed out that the military operations against the bandits are completely under the direction of American officers, and that he has carefully abstained from interfering with their plans because, as a military man himself, he realizes that interference would be a violation of sound military procedure. It appears to me that he made this statement without intending to criticise although it doubtless reflects his preoccupation if not his dissatisfaction with existing conditions. I do not know that he intended the statement to be a disclaimer of responsibility but it amounts to that and also implies that the United States Government and its military agents here are primarily if not entirely responsible for the re-establishment of order in Nicaragua. It would seem that President Moncada has thus presented a situation that should receive early and careful consideration.

As stated in the Legation's telegram of May 8, 9 a. m., concerning the first of the conferences mentioned above. General Moncada inti-

mated that he thought much more vigorous measures would have to be adopted before banditry is suppressed, and that he comprehended that the Marine forces are operating under conditions and limitations which restrain them from adopting measures which might be resorted to if Nicaraguan forces under the command of Nicaraguan officers were responsible for the character of the operations. He also expressed the opinion that native troops, because of their lighter impedimenta, familiarity with the country, greater endurance under the special conditions and other reasons, are better adapted for continuous and close pursuit of bandits than are the Marines, especially during the six months rainy period which has just begun. In a subsequent conference he repeated this opinion and, by way of illustration, mentioned what had been accomplished by Escamilla, the Mexican who has been in command for some time of a considerable force of the recently created Volunteers. Practically all of the volunteer forces have been disbanded with the exception of Escamilla's and even his have been materially reduced. It seemed to me that President Moncada does not approve of the proposed disbandment of Escamilla's forces. On the contrary, he thinks that they should be materially strengthened and that their field of operations should be greatly increased.

President Moncada probably finds himself in a trying position with respect to military operations in Nicaragua. There is a continual outcry in the press here concerning the disorder in the country. The Conservative press has been attacking the employment of Escamilla and the Liberal press expresses general dissatisfaction with the failure to stamp out disorder. Much of the criticism is directed against the President. At the same time, General Moncada, as a military man, probably has decided ideas as to how he would proceed if he were personally conducting the operations. Under the circumstances, it would seem that he is exercising great self-restraint in publicly disregarding the criticism and in continuing to give his loyal support to the American officers in command.

The situation described above was fully discussed with Generals Williams and McDougal at the last weekly conference in the Legation on the 22nd of this month. They are not in complete accord with General Moncada's views as to the comparative effectiveness of military operations by Marines and natives. Neither do they place such a high estimate on the services rendered by Escamilla and his forces. Of course they are both opposed in principle to the existence of a force of volunteers separate from the Guardia and it has been a part of General McDougal's plan to lose no time in mustering out the volunteers. At the same time, they desire to give President Moncada's wishes the importance they merit and they now have them under consideration. The advisability of taking Escamilla and his

command into the Guardia has been mentioned and General McDougal spoke of the possibility of giving him command of a selected force within the Guardia which might be termed "scouts".

To dispense with Escamilla's services at this time would undoubtedly be displeasing to General Moncada and his closest advisers. The accounts of his operations indicate that he is energetic and at times ruthless in his methods, but many Nicaraguans probably think such methods necessary. He has been bitterly criticised in the opposition press as a Mexican adventurer, a mercenary soldier, a murderer and cut-throat, and his operations described as a series of outrages against innocent parties. On a number of occasions this portion of the press has appealed to the President to relieve him of his command and deport him from the country. This outcry, however, may be an indication of the effectiveness of his methods. The Liberal press does not have much good to say of him but neither does it oppose or criticise his operations. He is looked upon as the agent of the Government, not of the Guardia, and all the criticism for employing him is directed against the Government and not against the Marines and Guardia. For this reason it would seem preferable, if his services are retained, not to attach him to the Guardia but to permit him to continue operating as a force for which the Government is primarily responsible.

In my opinion the following facts stand out very clearly in relation to the military situation:

The eradication of banditry and the complete restoration of public order in all Nicaragua must be accomplished before there can be real progress in any other direction. It is believed here, and perhaps quite generally in Latin America, that we have assumed the task of pacifying this country. The result of our present effort to aid this country will be judged largely by our success in performing that task. The bandit infested regions are still in a state of great disorder and improvement is not rapid. If the existing methods for restoring order are to be made more effective or if they are to be supplemented by others, the initiative must come from us. A failure to restore order within a reasonable period would be unfortunate to say the least.

I understand from military officers here that the banditry has reached a phase that seemingly can not be combated effectively by force alone. Some officers of long experience go so far as to say that the task of exterminating the remaining bandit groups is not a military problem. The proximity of the Honduran frontier and the seeming improbability of preventing the outlaws from freely crossing it add greatly to the difficulties of the problem.

It would seem that the time had come when military operations against the bandits should be supplemented by other methods which

may induce the outlaws to return to the pursuits of a peaceful existence. It is reasonable to suppose that they are made up in a large part of misguided souls who would abandon their present precarious mode of existence if they could escape the influences that are holding them and find some other method of supporting themselves and those dependent upon them. I am strongly of the opinion that if they could be assured a steady job at reasonable pay with a positive guarantee against punishment or persecution for previous offenses, they would desert their leaders and once more become law-abiding citizens. A concrete method for doing this would be to start road construction in the bandit infested regions in accordance with a carefully matured plan which would give work to all who applied from specified districts, and would guarantee protection for the laborers, preferably through amnesty.¹⁷

I have touched upon this subject with President Moncada as well as with his Minister for Foreign Affairs and Minister of Gobernación, all of whom have received the idea favorably, the two latter, however, with more enthusiasm than the former. The President probably hesitates because he does not know how he could procure the necessary funds for carrying on the work without giving up other projects, such as railway construction, roads in other regions, schools, and municipal improvements, to which he has committed himself. However, it ought to be possible to convince him that nothing should stand in the way of restoration of order and that it is unsound policy to undertake extensive public works and other improvements in the public service before order has been reestablished in the Republic.

The Minister of Gobernación, Mr. Sotomayor, who is a resident of Nueva Segovia, gave me an idea of what it might cost to carry out such a plan. He estimated the total unemployed in the portion of Nueva Segovia which would be embraced in the operation of such a plan, including bandits, at one thousand men, and said a reasonable wage would be sixty cents per day without food. He said the number in Jinotega would be much less, probably only one-half so many. Even allowing a large factor for error in his estimates and for other necessary expenditures, the total cost per day would probably not exceed \$1,500.00, or approximately \$40,000.00 per month of 26 working days. This is about half the present average cost of the Guardia.

Of course, the construction of roads in these regions would have a lasting influence for peace and would at the same time greatly facilitate the quelling of disorder should it occur in the future. General Williams has repeatedly told me that the absence of roads or even trails in a portion of the region makes military operations well-nigh impossible unless communications are first opened. In other words,

¹⁷ See pp. 696 ff.

the Marine forces are confronted by the necessity of opening up roads as an incident in their military operations, and if they have not the authority at the present time to engage in such work it would seem that the authority should be given together with ample funds, whatever the amount, to do the work with native labor. The Marines can not be expected to do such work themselves in this climate. Without such authority and funds from the Navy Department the Marines can not thoroughly penetrate the infested districts, but if they can engage in this road construction they will not only make their military operations effective but will also assist in restoring order by peaceful means. It is the most powerful as well as economical weapon our Government can place in their hands.

I have not discussed this subject of road construction by the Nicaraguan Government and the Marines with either General Williams or General McDougal, because I have not wished to divert their minds from their purely military task and encourage any tendency which may exist to consider that task completed, but I have reason to believe that they would both support my ideas in general. Nor do I wish to pursue the subject with Nicaraguan officials if it should be deemed unwise by the Department. Admiral Campbell¹⁸ is expected here in about a week or ten days and General Williams told me yesterday that he and the Admiral desire, at that time, to confer very fully with the Legation on all matters relating to the military operations. It would be appreciated and most helpful if the Department could furnish me with its views before the Admiral's visit.

I have [etc.]

MATTHEW E. HANNA

817.00/6331 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 4, 1929—2 p. m.

[Received 6:25 p. m.]

154. The bandits have been committing depredations in the Matagalpa area since June 1. They raided the hacienda of William Hawkins, an American, on June 1 but were driven off by the guardia, one bandit being killed. They raided the hacienda of Harry Trewin, a British subject, on June 2. These haciendas are approximately fifteen miles from Matagalpa. Mr. Alexander Sullivan, an American citizen, and his niece were reported to be in danger on his hacienda and a strong patrol of marines was despatched to escort them to Matagalpa.

Twenty property owners of various nationalities including Americans have telegraphed to President Moncada requesting him to "take

¹⁸ New Commander of the Special Service Squadron.

energetic measures not taken up to now to protect them in this terrible situation" and have furnished the Legation with a copy of the telegram. The British Chargé d'Affaires here is disturbed by the occurrence and has conferred with General Williams and me concerning measures that may be taken to insure the safety of numerous British subjects in that region.

General Williams sent Colonel Backstrom to Matagalpa today to take charge of the situation. The marine forces in that area have not been reduced recently and General Williams says that they will be increased if necessary to meet the situation adequately.

HANNA

817.00/6349

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1028

MANAGUA, June 7, 1929.

[Received June 24.]

SIR: With reference to the Department's instruction No. 509 of May 6, 1929, directing the Legation to obtain from the Brigade Commander and forward to the Department a full report of the conference held at Las Manos on April 6, 1929, and of the agreement said to have been entered into with the Honduran representatives, I have the honor to transmit herewith a copy of a letter dated June 4, 1929, addressed to the Legation by the Brigade Commander outlining the facts which he has been able to gather with reference to the conference up to date.

The Brigade Commander states that with respect to the reported agreement he is still unable to furnish definite information since Captain Stockes is still on leave in the United States. He has informed the Legation, however, that Captain Stockes is expected to return shortly and additional information should be available at that time.¹⁹

It is noted that in the second paragraph of the Department's instruction referred to, the following appears, "Article I of which states that the Nicaraguan and Marine forces will from that date onward cease the pursuit of Sandinistas on the Honduran frontier with American airplanes in view of the damage caused within Honduran territory by such operations."

That portion of the text of article 1 of the reported agreement, as transmitted by the Legation at Tegucigalpa is as follows: "1. Los representates de las fuerzas del Gobierno de Nicaragua y del Comandante General de Nueva Segovia, Coronel J. A. Rossell, se obligan a que terminen de hoy en adelante la persecución de sandinistas, en la forma en que se ha venido desarrollando, por los aviones

¹⁹ No further report appears to have been made to the Department of State.

americanos, en la frontera de Honduras con Nicaragua, porque se tiene en cuenta los perjuicios que puedan causarse en territorio hondureño, etc.”

This article is translated by the Legation at Tegucigalpa as follows: “The representatives of the forces of the Nicaraguan Government and of the Commandant General of Nueva Segovia, Colonel J. A. Rossell, bind themselves from today on to end the pursuit of Sandinistas in the form in which they have been using, by the American airplanes, for the damage which it can cause in Honduran territory as taken into consideration and etc.”

A more accurate translation of that portion of Article 1 would probably be the following: “The representatives of the forces of the Government of Nicaragua and of the Commandant General of Nueva Segovia, Colonel J. A. Rossell, bind themselves to cause to be terminated from today on the persecution of Sandinistas in the manner in which it has been carried out on the Honduran-Nicaraguan border by American airplanes, taking into account the damage which may be caused in Honduran territory, etc.”

The Department will be kept fully informed of any additional information concerning the conference at Las Manos which may become available.

I have [etc.]

MATTHEW E. HANNA

[Enclosure]

*The Commander of the Second Brigade, U. S. M. C. (Williams),
to the Chargé in Nicaragua (Hanna)*

[JUNE 4, 1929.]

MY DEAR MR. HANNA: I have the honor to acknowledge receipt of your communication of 29 May, 1929, which requests more information concerning a conference participated in by Captain George F. Stockes and others and the Honduran border patrol commanders.

As stated before, the conference was held on April 6th at Las Manos, and the object of such conference was to seek, without delay, ways and means for better cooperation in eliminating banditry on the border. At that time Salgado and Ortez were both in Honduras as a result of very energetic operations conducted against them. When they went across into Honduras our hands were of course tied and recourse must be had to other means. With that end in view and in order that no time be lost in securing permission from higher authorities, the conference was arranged with the consent and approval of Lieutenant-Colonel Rossell who was then in command of the Northern Area.

It is believed that the military necessity and situation were such at the time as to justify the holding of such a military conference.

At the conference Señor Henrique stated that it would be better to use only ground troops as the principal complaint against airplanes was the fright occasioned upon their approach. He also stated that in the air attack of March 31 mentioned in previous correspondence, that no one had been hurt.

At the conclusion of the conference there was turned over to Señor Henrique a list of names of people in Honduras (near the border) who had been aiding the bandits.

The agreement reported to have been entered into is as follows:

"Las Manos, Honduras-Nicaragua, on the 6th day of the month of April, 1929, the undersigned, General Felipe T. Flores, Expeditionary Chief of the Forces of the Government of Nicaragua, Captain George Stockes, Representative of the Commanding Officer of Nueva Segovia, and the Generals Juan B. Mendoza and Jose A. Sanchez and the lawyer (attorney) Jose B. Henriquez, in their capacity as Expeditionary Chiefs the first two and the last as Jefe Director and Expeditionary Delegate (for the Executive Power) have agreed upon the following after the statements that each party made to the other in order to clean up the border of Honduras and Nicaragua in regard to bandits:

1st. The Representatives of the Forces of the Government of Nicaragua and of the Commanding Officer of Nueva Segovia, Colonel J. A. Rossell, bind themselves to discontinue (stop) from this date on the persecution of Sandinistas in the way it has been done by the American Avions on the border of Honduras and Nicaragua, because it is taken into consideration the damages that they may cause on Honduranian territory, on account of the good relations of friendship cultivated (maintained) by the Government of Honduras and Nicaragua and with the Government of the United States of America.

2nd. The expeditionary Chiefs of the Government of Honduras hereby bind themselves to continue their activity on the border or in Honduranian territory, with the object of disarming Sandinistas, in order to stop the intranquillity that they cause the families that live on said border.

3rd. The two parties mentioned in number 1 and 2 aforesaid bind themselves to comply reciprocally the contents of said numbers to accomplish the task of tranquilizations (pacification) and to maintain the Honduranian and Nicaraguan families in procuring their individual safety and of their property."

Attention is invited to the fact that the Nicaraguan Government forces were represented by the Expeditionary Chief of Volunteers, Flores, and by the Guardia Nacional officer, Lieutenant Hamas.

It was necessary for Captain Stockes to act as a spokesman, as he was the senior in command of all operations in that particular area.

In answer to a telegram sent by Señor Henrique in which he stated

he appreciated the opportunity for the meeting, Colonel Rossell sent the following telegram to that official:

"To the Honorable Jose B. Henriquez, sub-secretary of Gobernacion, Alauca, Honduras. Your kind telegram of this date received at the moment General Flores, Captain Stockes and Lieutenant Hamas marched into town. Already they have told me how kind and attentive you and your associates were at the conference. They assure me of your determination to cooperate in all future movements to stamp out banditry and to allow the citizens of both countries to enjoy the fruits of their labor. I shall need your assistance in exterminating Ortez either near Las Manos or in the region of Malacate. Preliminary to this move I shall ask another conference at the time and place which I shall communicate later. All pledges made by Captain Stockes are fully guaranteed by me. Very sincerely."

The results of these informal meetings have been gratifying. Better cooperation has been secured and banditry on the northern border is no longer lucrative. Ortez is the only Jefe of any consequence in that region.

Due to the fact that Captain Stockes is still absent on leave in the United States I am unable to inform you definitely whether or not he signed any agreement, but the information is such that there is reason to believe that he did. However if Captain Stockes did sign any agreement with Honduran authorities, such action on his part was without any sanction of higher authority and he had no right to exercise such authority on his own initiative. Such agreement, if it was made and signed as reported, is therefore in no way binding upon the Brigade Commander or officers acting under his orders.

With the reports previously given you, I hope this will give you the necessary information requested in your letter.

With assurance [etc.]

DION WILLIAMS

817.00/6325 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, June 10, 1929—5 p. m.

85. Your despatch No. 1008, March [May] 24, 1929. The Department concurs in your view that it would be better for the Guardia to avoid responsibility for the actions of Escamilla's forces, but it feels that these forces should be disbanded and all field and police work taken over by the Guardia as soon as practicable. While such marine forces as may be necessary should be retained in towns like Ocotal and Jinotega for the present to support the responsible Guardia forces, the Department hopes that these forces may be gradually withdrawn in proportion to the then existing strength of the Guardia Nacional and in accordance with then existing conditions.

With respect to road construction, the Department feels that the Nicaraguan Government ought, as in the past, to provide the necessary funds, but it would hesitate to suggest a program calling for so large an expenditure as forty thousand dollars monthly.

The Department has not had recent information showing exactly what sections of Nicaragua are still in a seriously disturbed condition. It had hitherto understood from reports received from the Marines that bandit activities were practically terminated in all settled portions of the country. In this connection please report further details regarding the recent bandit raid in Matagalpa. Which outlaw leader was responsible and how serious is the situation in that department considered?

The Department will be glad to have you discuss these matters with General Williams, Admiral Campbell and General McDougal and report further recommendations to the Department before taking them up with the Nicaraguan Government.

STIMSON

817.00/6339 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 12, 1929—noon.

[Received 8:11 p. m.]

160. Department's telegram No. 85, June 10, 5 p. m. I have conferred with Generals Williams and McDougal. The volunteers have been reduced recently from about two hundred and fifty to less than one hundred men and it is expected to effect their complete disbandment as soon as possible. However, President Moncada's wishes in this matter may necessitate some delay and some appropriate occupation must be found for Escamilla. The guardia forces are being gradually increased as much as possible in the Matagalpa and Ocotal areas but it is not deemed advisable to reduce the marine forces in those areas for the present.

Bandit activity in the Matagalpa area has increased during the past three weeks. General Williams believes this is due (1) to encouragement of anti-administration elements in an effort to discredit the administration, marines and guardia; (2) to considerable numbers of unemployed floaters following the discharge of several hundred men until recently employed on the Matagalpa road and termination of the coffee picking season. The British Chargé d'Affaires has informed me officially that bandits attacked in that area the plantation of Charles Potter, a British subject, on June 5. General Williams believes that the attacks on foreign-owned plantations have been made to obtain supplies and loot and also in an effort to show that the administration

supported by the marines and guardia is not giving complete protection to foreign interests. It is believed that Altamirano and Blandon are the responsible outlaw leaders. The situation in this area is considered serious but has been met by increasing the strength of both marines and guardia and by a stronger and more active patrol service. I am also informed that the bandits were encouraged by reports current in that area that the marine forces in Nicaragua were being reduced.

Concerning road construction, General Williams is emphatically of the opinion that the expenditure of money for this purpose is desirable for military reasons alone. He says that transportation of military supplies over various poor roads by bull carts costs approximately ten times as much and transportation by pack animals over trails twenty times as much per unit of weight as transportation by motor truck over good roads. For this reason alone he believes it in the interest of economy for the Government of the United States to construct roads passable for motor trucks from some point on the railroad to Ocotal, Matagalpa and Jinotega. General McDougal concurs emphatically in this opinion. Although this road work would not be in the heart of the disturbed areas, nevertheless it would have an important quieting influence by giving work to unemployed, many of whom are potential bandits. Both officers concur in my views as to the effect that road construction in the heart of the infested areas would have on the elimination of banditry and the desirability of beginning such construction with the least possible delay as set forth in my despatch 1008, May 24th, 1929. After further investigation I believe that an adequate program for road construction could be carried out at a cost not to exceed twenty-five thousand dollars a month and Mr. Willey,²⁰ whose experience in this class of work is known to the Department, confirms this estimate. If this receives the Department's favorable consideration I would appreciate an expression of the Department's views that I can make use of when I take the matter up with the Nicaraguan Government.

HANNA

817.00/6372 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, July 17, 1929—4 p. m.
[Received 6:15 p. m.]

193. Admiral Campbell arrived here July 13th and will leave tomorrow. Under his orders from the Navy Department he has conferred with Generals Williams and McDougal and the Legation, and has recommended by telegram to the Navy Department the withdrawal of twelve hundred enlisted marines and a proportionate

²⁰ Presumably John A. Willey, American Consular Agent at Matagalpa; employed by the Nicaraguan Government as engineer in road construction.

number of officers. He recommended no reduction in aviation at this time. His recommendation is based on the assumption that the guardia will be kept at present strength of two thousand enlisted [men?]. General Williams concurs.

I regret that I cannot concur in the foregoing. The proposed withdrawal is a fifty percent reduction in marine forces now in Nicaragua exclusive of aviation, and the percentage of reduction in marines available for active field work in the disturbed regions is still greater. There are now approximately seven hundred guardia in those regions and General McDougal says he can increase only to approximately eight hundred, and that only about one half of this force can be on active field work at one time. The consensus of opinion in Nicaragua appears to be that there is but little if any improvement in the military situation as compared with a year ago. The political situation is becoming increasingly acute with the probability of increased disturbance as a natural result. I believe there is grave danger that any reduction of marines at this time, however small, would stimulate discontented elements and be followed by increased disturbance involving outrages on Americans and other foreigners and their interests in Nicaragua. I therefore recommend that no reduction be made in the existing marine forces until the situation has materially improved.

The Legation is making every effort to prevent the nature of the conferences with Admiral Campbell from becoming public here because I think that the mere knowledge that a reduction is being discussed would have unfortunate consequences.

I have given a copy of this telegram to Admiral Campbell and General Williams.

HANNA

817.00/6376 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, July 23, 1929—5 p. m.

[Received July 24—11:35 a. m.]

200. Department's telegram No. 106, July 22, 11 a. m.,²¹ third paragraph; and my 193, July 17, 4 p. m.

The present strength of the marines in Nicaragua is 144 officers and 2422 enlisted, of the aviation detachment 12 officers and 196 enlisted, and of the Navy 21 officers and 91 enlisted.

Order has not been restored in Nicaragua. Extensive regions in the north are dominated by lawless elements and the resumption therein of peaceful pursuits is impossible. Incursions by these out-

²¹ Not printed.

laws upon neighboring productive centers ordinarily peaceful still occur. The raid into the Matagalpa coffee region some weeks ago is an example. As recently as July 5th there was an engagement in which 16 bandits were killed. The British Chargé d'Affaires here has consulted me frequently of late concerning adequate protection for his nationals.

Few, if any, informed people here, so far as I know, think the situation much, if any, better than it was a year ago. Even the most optimistic consider the situation bad. A reduction in the forces operating against outlaws under existing conditions might have disastrous results. I believe the danger too great to justify such reduction. If by chance the outlaws are discouraged and desirous of returning to peaceful pursuits this is the time for more active operations against them, and not an occasion to encourage the zone leaders and other influences interested in instigating disorder, as would be the case if the marines are reduced.

It should not be overlooked that the elements opposed to the Moncada administration would be glad to see the marines withdrawn. They seek to discredit that administration, and a continuance of disorder in Nicaragua is to their liking. They play upon the discontented element. The reduction of the marines would be used by them to stimulate a recrudescence of disorder.

The reduction of marines on active field work would be immediately felt in the disturbed region especially as the force of guardia now in those regions cannot be materially increased. I believe as do many here that the influence of Sandino is greater now than it was just prior to his leaving Nicaragua. His propaganda is being published by a part of the press here and one paper recently referred to him as a Nicaraguan patriot. His name has a distinct appeal. It remains to be seen if this is but a temporary condition.

I have not overlooked the stabilizing effect of the engineer battalion when it reaches Nicaragua but it can have little direct influence on the state of disorder in the north. Neither have I overlooked the desirability of reducing the marine force if that were at all practicable, and I regret that I cannot recommend a reduction. Instead I am strongly of the opinion that this is the moment to initiate a more vigorous campaign than ever before against the outlaws with every available man of the combined marine and guardia forces and I recommend that orders to that effect be issued. I believe if this is done in conjunction with measures now under consideration which would extend amnesty and work to those outlaws who are ready to return to peaceful pursuits a condition of public order may be speedily reestablished such that a reduction of the marines at the beginning of next year may be hoped for.

817.00/6390

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1127

MANAGUA, August 22, 1929.

SIR: In accordance with orders from the Navy Department received by the Brigade Commander on July 24, 1929, calling for the withdrawal from Nicaragua of 1200 enlisted marines and a proportionate number of officers, I have the honor to inform the Department that the United States Navy Transport *Henderson* sailed from Corinto on August 21, 1929, for New York with 732 enlisted marines and 18 officers. It is stated that the remainder of the allotted 1200 men and corresponding number of officers will sail for the West Coast of the United States shortly.

The departure of this considerable contingent of marines was effected quietly. Most of them left in a special train from Managua. Among the officers leaving was Colonel Robert Dunlap, until his departure Commander of the Northern Area of Nicaragua, who has rendered exceptional and notable service to Nicaragua in suppressing banditry. The Sub-Secretary of Gobernación and his wife, who are personal friends of Colonel Dunlap, went to the station to see the marines leave; otherwise no official notice of their departure by the Government of Nicaragua was observed. The newspapers, likewise, failed to comment.

Brigade Headquarters advises that of the 1300 enlisted marines who will remain for the present in Nicaragua one battalion of about 400 are in Ocotal, a second battalion of about 400 are in Matagalpa, and a third battalion of about the same number are in Managua. The entire aviation command, which has not been reduced so far, is concentrated in Managua.

The Guardia distribution outside of Managua is as follows: Eastern Area comprising the Department of Bluefields, 257 men and officers; Western Area comprising the Departments of Leon and Chinandega, 218 men and officers; Southern Area comprising the Departments of Granada, Carazo, Chontales, Masaya and Rivas, 311 men and officers; Northern Area comprising the Departments of Nueva Segovia and Esteli, 609 men and officers; Central Area comprising the Departments of Jinotega and Matagalpa, 414 men and officers.

I have [etc.]

MATTHEW E. HANNA

817.00/6490

The Chargé in Nicaragua (Beaulac) to the Secretary of State

No. 1246

MANAGUA, December 6, 1929.

[Received December 12.]

SIR: I have the honor to transmit the following information re-

ceived from Brigade Headquarters concerning recent contacts between the Guardia Nacional and bandits.

On November 27, 1929, a group of bandits estimated from twenty-five to one hundred attacked the Guardia garrison of ten enlisted men at La Colonia in the vicinity of Jinotega, killing three and seizing all arms and ammunition on hand. The remainder of the garrison fled but are understood to have reported in later. The bandit group fled to the north and are reported to have fired on the Guardia garrison near Blandon's Crossing.

A small Guardia patrol out from Daraili on a police mission on November 30 encountered a group of bandits and killed two. Four native scouts ran into a group of thirty men armed with shotguns and machetes and killed one.

A Guardia patrol was ambushed just outside of Santa Rosa in the vicinity of El Sauce. The Guardia shot and killed two bandits and captured one pistol, one rifle and three shotguns. There were no Guardia casualties. The contact was believed to have been on November 29.

There is considerable apprehension among the foreign and native coffee growers in the vicinity of Matagalpa following the above evidences of renewed bandit activity. This apprehension has been increased by rumors that Admiral Campbell, the Commander of the Special Service Squadron who is now visiting Nicaragua, will recommend a further reduction in the Marine Corps strength.

I have [etc.]

WILLARD L. BEAULAC

GRANTING OF ASYLUM IN MEXICO TO GENERAL SANDINO AS A POLITICAL REFUGEE FROM NICARAGUA

817.01/42 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

[Paraphrase]

MEXICO, January 31, 1929—1 p. m.

[Received 6:12 p. m.]

14. My despatches No. 1323, January 8, and No. 1354, January 21.²² This morning I inquired of Señor Estrada, the Acting Minister for Foreign Affairs, as to the significance of the two press statements recently issued here regarding the relations of the Government of Mexico with the new Government of Nicaragua. Señor Estrada replied that it was the intention of the Government of Mexico not to resume diplomatic relations with the Nicaraguan Government until the forces of occupation were withdrawn. Señor Estrada stated that

²² Neither printed.

no such statement of course had been made by the Government of Mexico since it did not desire "to wound susceptibilities", but that so long as the forces of occupation remained in Nicaragua the Government in Nicaragua could not be regarded as independent and the attitude of the Government of Mexico was therefore in conformity with its general policy in such situations.

SCHOENFELD

817.01/43 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, February 21, 1929—3 p. m.

[Received 11:45 p. m.]

31. Embassy's 14, January 31, 1 p. m. Upon my return I immediately took up the question of Mexico's future relationship to Nicaragua with Señor Estrada and told him that while it was not of great importance to the United States it would be hurtful to Mexico if Mexico delayed recognition to Nicaragua on the ground that American marines were still in Nicaragua. About a week ago I had a second talk with Señor Estrada on the same subject and I explained to him the extent to which the enemies of Mexico in the United States could use an incident of that sort to attempt to prove that Mexico was the leader of the propaganda against the United States in Latin America.

During our conversation Señor Estrada informed me that after the Nicaraguan elections he had instructed the Mexican Minister in Costa Rica, who was previously also assigned to Nicaragua, to proceed to Nicaragua temporarily thus causing resumption of relations. Señor Estrada explained that at the same time the press statement quoted in Embassy's despatch No. 1320 [1323?], January 8,²³ was given out by him in an endeavor to prepare public opinion in Mexico on the subject. Estrada stated that immediately after the publication of this statement President Gil received hundreds of telegrams and letters protesting against recognition and that on account of that evidence of what they considered public opinion the authorities thought it necessary to cancel the orders to Mediz Bolia.

I went to see President Gil yesterday at his request and he brought up the subject of Nicaragua. The President said that Sandino had sent an emissary to the Mexican Minister in Costa Rica asking the Government of Mexico to grant him an asylum. The President stated that he wanted my advice on this subject because he wished, if possible, to use this occasion in such a way as to improve the relation-

²³ Not printed.

ship between his country and mine. The President therefore proposed, if agreeable to us, to grant asylum to Sandino under an express stipulation that Sandino cease all of his activities against the United States. He thought that Mexico might contribute toward peaceful conditions in Nicaragua by taking this course. He recognized that there might be temporary ovations and press comments on Sandino's arrival in Mexico, but it was his feeling that the temporary disadvantages of these would be outweighed by the permanent advantage of the cessation of armed strife in Nicaragua.

I inquired of President Gil whether the Government of Mexico would issue a statement if it decided to grant asylum to Sandino. He answered that it would be in a form somewhat as follows: Sandino has requested permission to reside in Mexico; the Government of Mexico has decided to grant Sandino this permission on condition that he abstain from any activities which might be construed as hostile to the United States while enjoying the hospitality of Mexico.

I told President Gil that I, of course, was not familiar with the situation in Nicaragua and therefore could not inform him how the State Department would view this suggestion. I indicated however that there might be some objections to the proposed form of statement because of the fact that Sandino's activities have been directed against the Government of Nicaragua rather than against the United States. I made the suggestion that possibly it might be better if the conditions placed on Sandino were that he is not to engage in revolutionary activities against Nicaragua while enjoying the hospitality of Mexico. President Gil agreed that this might be preferable.

This morning I called upon Señor Estrada to present Mr. Morgan.²⁴ Señor Estrada himself brought up the Nicaraguan matter and inquired about my conversation with President Gil. Señor Estrada made it clear to us that if the Government of Mexico permitted Sandino to have asylum in Mexico it would not be difficult to keep him in a remote state like Yucatan, Chiapas, or Tabasco. I asked Señor Estrada if they could prevent Sandino from coming to Mexico City. Señor Estrada replied that they would only have to tell him that he could not come.

I told President Gil and Señor Estrada that I would submit this suggestion immediately to the Department. I should be pleased to have the Department's comment as soon as possible.

MORROW

²⁴ Stokeley W. Morgan, Counselor of Embassy in Mexico.

312.1722 Sandino/2½ : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, February 25, 1929—2 p. m.

33. Your 31, February 21, 3 p. m. Persons guilty of political offenses have always found a safe asylum in the United States and the extradition treaties of the United States with many countries specifically provide that persons charged with political crimes shall not be subject to extradition therefor (Moore, *International Law Digest*, vol. IV, page 332; Malloy, *Treaties*, index *sub voce* Political offenses). This principle finds general acceptance among nations. In affording asylum to Sandino, Mexico will thus be entirely within her rights. But my view accords with yours that the proposal to give Mexican asylum to Sandino is a matter primarily affecting Mexico and Nicaragua, rather than Mexico and the United States. The United States is not making war on Sandino; the United States is merely assisting the Government of Nicaragua at its request to establish and maintain in Nicaragua domestic peace which Sandino has been disturbing. The United States, of course, is as deeply interested that peace shall obtain in Nicaragua as it is that peace shall obtain in other nations. It has done and will continue to do all it properly may to promote peace among all peoples, whether under conventional obligations, the rules and principles of international law and comity, or the demands of a good neighborhood.

A situation not essentially dissimilar from the present one arose in 1909 when Zelaya, upon his resignation as President of Nicaragua, sought and was given an asylum in Mexico. This subject is discussed in *Foreign Relations*, 1909, pages 458, 459, and *Foreign Relations*, 1910, pp. 739 ff. While it is not printed in *Foreign Relations*, yet it is a fact that on December 20, 1909, an *aide-mémoire* from the British Embassy informed the Department that the British Government had sent instructions to the commander of the *Shearwater* to afford asylum to Zelaya and convey him to a neutral port on condition that His Excellency engaged not to return to Nicaragua and that the protection of British interests did not require the immediate presence of His Majesty's ship. Sir Edward Grey further added that the President could not be sent for; he had to find his own way to the ship.

It would seem obvious that by affording an asylum to Sandino the Government of Mexico will assume a moral responsibility to make sure that Sandino does not use Mexico as a base for operations against the Government of Nicaragua nor as a safe refuge from which he may direct or foment further revolutionary activities against the Government of Nicaragua.

If, as suggested by President Portes Gil, the Government of Mexico could make an announcement embodying the foregoing principles such as would also make clear to the Nicaraguan rebels that the granting of refuge to Sandino was not to be construed as an expression of sympathy for, or an endorsement or a fostering of, the rebel cause, the resumption of complete domestic tranquillity in Nicaragua would be materially served.

In your discretion you may communicate the substance of the foregoing to President Portes Gil or Subsecretary Estrada, at the same time expressing the appreciation of the Government of the United States for the renewed assurance of friendliness which is shown by their consulting you in regard to this matter.

The Department would much prefer to have Sandino in Mexico under surveillance than in Costa Rica, Guatemala, or Honduras, where he might otherwise go.

KELLOGG

312.1722 Sandino/3 $\frac{1}{2}$: Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, March 1, 1929—noon.

[Received 4:20 p. m.]

40. Your 33, February 25, 2 p. m. At interviews had with the President and the Acting Secretary of State I communicated to them the substance of your telegram and both expressed satisfaction and appeared to agree with your views. It is my belief that if Sandino continues to be of the same mind with regard to seeking asylum in Mexico, the matter may be expected to proceed along the lines indicated.

MORROW

312.1722 Sandino/3 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, April 10, 1929—noon.

[Received 3:32 p. m.]

35. The Subsecretary for Foreign Affairs has just informed me by direction of the President of the Republic that the Minister of Mexico has requested permission for Sandino to pass unarmed through Honduras on his way to Mexico. Doctor Duron appeared to view the request sympathetically, but stated that no reply has yet been made to the Mexican Minister.

Repeated to Managua.

SUMMERLIN

312.1722 Sandino/4 : Telegram

*The Secretary of State to the Minister in Honduras (Summerlin)*²⁵

[Paraphrase]

WASHINGTON, April 11, 1929—7 p. m.

30. Your 35, April 10, noon. In response to a telegram from Ambassador Morrow in Mexico reporting that Sandino had requested asylum in Mexico, the Department replied that the Government of Mexico in accordance with the general principles of international law would be entirely within its rights in affording such asylum, but that it would, of course, assume a moral responsibility by so doing to make sure that Sandino should not use Mexico as a base for operations against the Government of Nicaragua. Ambassador Morrow was authorized to convey this opinion to President of Mexico.

Accordingly, if your opinion should be requested, you may very informally indicate to the Honduran authorities that the Government of the United States will interpose no objection to the transit of Sandino from Nicaragua to Mexico.

Repeat your telegram to El Salvador and Guatemala.

STIMSON

312.1722 Sandino/7 : Telegram

The Chargé in Guatemala (Hawks) to the Secretary of State

GUATEMALA, April 24, 1929—9 a. m.

[Received 1:40 p. m.]

52. Referring to the Legation's telegram of April 15, noon.²⁶ The Minister for Foreign Affairs informed me last night that yesterday the Mexican Ambassador had requested permission for Sandino to pass through Guatemala from Salvador to Mexico; that this permission was granted and that Sandino will be escorted through Guatemala, precautions being taken to prevent any demonstration whatever.

Repeated to Nicaragua, Honduras and Salvador.

HAWKS

312.1722 Sandino/10 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, April 30, 1929—2 p. m.

[Received 6:25 p. m.]

230. Department's 333, April 25, 9 p. m.²⁷ The President informed me yesterday afternoon that Sandino would take up his residence at

²⁵ Substance repeated on same date to Nicaragua as No. 50, to El Salvador as No. 8, and to Guatemala as No. 15.

²⁶ Not printed.

²⁷ Not printed; it repeated the text of telegram No. 52, April 24, 9 a. m., from the Chargé in Guatemala, *supra*.

Merida, Yucatan. He assured me that Sandino would not be allowed to come to Mexico City en route to Yucatan.

MORROW

312.1722 Sandino/20 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, May 4, 1929—10 a. m.

[Received 2:05 p. m.]

236. Department's 355, May 3, 4 p. m.²⁸ The Foreign Office informs me that Sandino is still in Nicaragua pending the final arrangement of details concerning his transportation to Mexico. It is hoped that arrangements can be made for him to sail from Puerto Cortes to Progreso and thence go direct to Merida where he is to remain. It may be possible for him to start within a few days. The hope was expressed at the Foreign Office that he would not now be interfered with as he has definitely decided to come to Mexico and has accepted the conditions laid down by the Mexican Government. The Foreign Office promises to inform me of further developments.

Repeated to Managua.

MORROW

312.1722 Sandino/28 : Telegram

*The Secretary of State to the Ambassador in Mexico (Morrow)*²⁹

WASHINGTON, May 8, 1929—1 p. m.

360. Your 236, May 4, 10 a. m. When this Government is informed of the date on which Sandino will leave Nicaraguan territory and of the route which he will follow to the port where he embarks, or to the place where he crosses the frontier, it will give instructions to the forces in Nicaragua to avoid any interference with Sandino's departure. Conditions in northern Nicaragua, however, are such that no definite assurances can be given and no responsibility for Sandino's safety can be assumed.

The Mexican Ambassador informs the Department that it is now contemplated that Sandino should be brought directly to Chiapas by boat without passing through Honduras, and that he would be taken from Chiapas via Vera Cruz to Mérida.

STIMSON

²⁸ Not printed.

²⁹ Substance repeated to the Minister in Nicaragua on the same date as No. 67.

312.1722 Sandino/26 : Telegram

The Minister in El Salvador (Robbins) to the Secretary of State

SAN SALVADOR, May 14, 1929—3 p. m.

[Received 10:50 p. m.]

32. Minister of Foreign Affairs told me this morning that Mexican Minister here had reported to him that Mexican Foreign Office had advised on May 11th that Sandino would shortly arrive in Tegucigalpa traveling incognito and that he would travel thence through Salvador and Guatemala to Mexico.

Mexican Minister promised to let the Minister for Foreign Affairs know as soon as he learned of Sandino's departure from Tegucigalpa to Salvador. I shall endeavor to keep the Department informed.

Repeated to Mexico City, Tegucigalpa, Managua, San Jose, and Guatemala.

ROBBINS

312.1722 Sandino/30

Memorandum by the Under Secretary of State (Clark) of a Conversation With the Mexican Ambassador (Téllez), May 17, 1929

The Ambassador told me that Mr. Morgan had been around to see the Foreign Office with reference to a communication which our Embassy in Mexico had received regarding Sandino. (It would seem that the telegram in question was probably ours of May 8.) The Ambassador assured me that the Mexican Government was not interceding upon behalf of Sandino and were under no obligations to him, but that he had applied for asylum and just as we gave asylum to Mexican rebels, they had felt they could give asylum to Sandino.

Upon his expressing some apprehension about Sandino's safety, I told the Ambassador that we would do what we could to prevent any injury to Sandino from the regular Nicaraguan forces and from the Guardia, but that I understood the northern part of Nicaragua was in a very disturbed condition with the result that we were not in a position to guarantee Sandino's safety. I told him that we would, of course, request the Guardia not to injure Sandino, but that I did not know how far any request that we might make would go.

The Ambassador left with the statement that so soon as they knew that Sandino was ready to come out they would advise us in order that we might advise the proper persons. I told him that we would leave the matter in that shape.

J. R[EUBEN] C[LARK]

312.1722 Sandino/39

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 1718

MEXICO, June 28, 1929.

[Received July 3.]

SIR: I have the honor to report that according to a press statement, General Augusto Sandino, the Nicaraguan bandit, arrived in Mexico day before yesterday, entering at Tapachula, Chiapas, from Guatemala, and that he is said to be en route to Yucatan, where he will fix his residence.

Mr. Sierra, of the Foreign Office, today renewed to a member of the Embassy the previous assurance that Sandino would not be allowed to come to Mexico City and stated that if through any circumstance he should come to the capital, no demonstration of any kind in his behalf would be permitted.

I have [etc.]

DWIGHT W. MORROW

817.00/6492a : Telegram

The Vice Consul at Progreso (Lane) to the Secretary of State

PROGRESO, July 11, 1929—10 a. m.

[Received 7 p. m.]

Sandino arrived at Progreso this morning; proceeded to Merida.

LANE

817.00/6441½

The Secretary of State to the Ambassador in Mexico (Morrow)

No. 849

WASHINGTON, November 7, 1929.

SIR: There are enclosed herewith two copies of a despatch dated October 22, 1929, submitted to the Department by the American Consul at Bluefields, Nicaragua, accompanied by copies of a manifesto to the Nicaraguan people purporting to have been issued by Sandino.³⁰

The Department is particularly interested to know if and when Sandino contemplates returning to Nicaragua. The Department is sending this instruction to you with this end in view and leaves to your discretion the advisability of your making any inquiries in the premises. The Department would also be interested to know whether the printing shop "El Porvenir" exists in Progreso at the address stated on the manifesto. It is suggested that you may see fit to communicate with the Vice Consul at Progreso to obtain this information.

I am [etc.]

For the Secretary of State:

J. P. COTTON

³¹ Not printed.

817.00/6492

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 2034

MEXICO, December 4, 1929.

[Received December 11.]

SIR: I have the honor to refer further to the Department's instruction No. 849 of November 7, 1929, in which the Department states that it is particularly interested to know if and when Sandino contemplates returning to Nicaragua. Reference is also made to my despatch No. 2007 of November 20, 1929.³¹

I have mentioned the matter informally to the Minister for Foreign Affairs, who stated that his Ministry has no information whatever relative to the alleged plans of Sandino. I suggested to him that it would be helpful in furthering good will between the United States and Mexico if the Mexican Government might find it possible to prevent Sandino's leaving this country directly for Nicaragua; that if he should leave for Europe or some other part of the world and from there go to Nicaragua, the Mexican Government naturally would have no responsibility.

Mr. Estrada agreed with the desirability of carrying out this suggestion and said that his Government would do what it could to prevent Sandino's leaving directly for Nicaragua. He added, however, that inasmuch as Sandino is not a Mexican citizen, it was rather difficult for them to take any decided action to restrict his movements.

I have [etc.]

DWIGHT W. MORROW

817.00/6492A : Telegram

The Secretary of State to the Chargé in Mexico (Johnson)

WASHINGTON, December 11, 1929—5 p. m.

539. There is reason to believe that Sandino may be planning to return to Nicaragua in the near future. We desire prompt information about his movements. Please endeavor to arrange in any proper way to obtain information about his movements, and if practicable to learn anything which he may have divulged about his plans, and to forward such information promptly by cable to the Department and to the American Legation at Managua.

STIMSON

817.00/6499 : Telegram

The Chargé in Mexico (Johnson) to the Secretary of State

MEXICO, December 19, 1929—3 p. m.

[Received 7:33 p. m.]

382. My 377, December 14, 1 p.m.³¹ General Tapia, Chief of the President's Military Staff, tells me that according to his information

³¹ Not printed.

Sandino is endeavoring to purchase a farm near Merida on which to live and that he finds difficulty in securing the purchase money. General Tapia says he has no information whatever that would indicate Sandino is planning to return to Nicaragua.

Repeated to Nicaragua.

JOHNSON

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

817.00/6251 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 8, 1929—4 p. m.

[Received 10:00 p. m.]

93. In recent weeks some sixteen men of known or reported Conservative leanings have been imprisoned in Managua by the present Government. Most of them have been released after a few days' imprisonment, and no legal charge of misdemeanor or offense appears to have been brought against them. Last Friday two nephews of General Chamorro were so imprisoned and also the well-known editor Gabry Rivas. So far as this Legation is informed the latter three are still imprisoned. General Chamorro called personally to request the Legation's special attention to his own case and guarantees such as he states President Hoover offered him verbally in their conversation on the *Maryland*. He left Saturday for his ranch across the lake and was accompanied on the trip by an American marine.

Opinion seems to be divided as to the extent to which this attitude will be carried by the Government but seems rather general to the effect that intimidation rather than terrorization or reprisal is meant.

EBERHARDT

817.00/6251 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 9, 1929—6 p. m.

48. Your 93, April 8, 4 p. m. Were these arrests made by the Guardia and if so by whose orders? Was not the Guardia informed of the charges leading to the arrests? Please report in detail by telegraph such information as the Guardia can give you on each case. Where are the prisoners held? If they are in the penitentiary or police station it should be easy for you to ascertain from the Guardia whether Gabry Rivas and the other mentioned are still in jail, and if so whether they are being legally held. Please rush reply.

STIMSON

817.00/6254 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 10, 1929—11 a. m.

[Received 4:10 p. m.]

95. Department's telegram April 9, 6 p. m. Arrests were made by guardia upon President's order written or verbal; guardia not informed of charges. Prisoners held in penitentiary under guardia. They are treated with consideration and not placed with common prisoners. Guardia advises Gabry Rivas and the two nephews of Chamorro are still detained. Detailed report including investigation of legality of arrests is being prepared by the guardia.

EBERHARDT

817.00/6256 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 11, 1929—11 a. m.

[Received 3:25 p. m.]

96. Legation's 95, April 10, 11 a. m. In conversation with the President yesterday he brought up the matter of the recent imprisonments. He stated that all of the arrests made at his order were legal in every way, that warrants had been issued in all cases, and that no man had been detained beyond the period of ten days permitted by Constitution. He stated that these men or the elements they represented were [not?] attempting to incite the people to revolution but he states he did have good reason to believe that they were conspiring to promote intranquillity and lack of confidence in his regime. He suspects the two nephews of Chamorro of having helped to furnish supplies to Altamirano. In the case of Gabry Rivas he states that the latter, with a home of his own, hired a room in a building very close to the Presidential palace where he and other undesirable Conservatives were in the habit of meeting. I expressed to President Moncada the hope that he would not find it necessary to continue this series of arrests much longer and he promised me that he would not abuse the powers placed in him by the Constitution. According to the President, only the three persons mentioned in the Legation's 95 and one other are at present being detained by his order and he expects to order their release at the end of the legal period of 10 days.

EBERHARDT

817.00/6254 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 11, 1929—8 p. m.

51. Your 95, April 10, 11 a. m. Department believes that the Guardia should not be asked to make arrests without having full information of the reasons therefor. Please discuss this point with McDougal³³ and inform Department of your views and his either by cable or as part of the detailed report to which you refer. Do not make representations on this point to Moncada at present unless you and McDougal consider it necessary to do so. Please expedite report, sending it by air mail if possible.

STIMSON

817.00/6260 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 12, 1929—11 a. m.

[Received 4:25 p. m.]

99. Department's April 11, 8 p. m. McDougal is investigating entire situation and is preparing a formal method of procedure to be followed in making arrests. This will be presented to the President when ready and it is hoped that it will obviate the necessity of representations by the Legation. Under this plan the Guardia will insist on full information in the case of each arrest.

McDougal quite correctly does not wish us [to] act hastily in this matter and he prefers to delay action until he has prepared a complete plan to replace the present informal procedure. This of course will require a minute study of Nicaraguan law and criminal procedure. In the meantime the few prisoners still held are being well treated and there is apparently no immediate cause for alarm. It is hoped that the plan of procedure being prepared for the President will clarify the whole situation.

EBERHARDT

817.00/6267 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 16, 1929—2 p. m.

[Received 5:31 p. m.]

105. Legation's 99 April 15 [12], 11 a. m. The President stated to me this morning that no prisoners were now being held at his order. Gabry Rivas and Adolfo and Enrique Vargas are being held by order of the Criminal Judge of Managua, the first for leading and

³³ Douglas C. McDougal, Chief of the Guardia Nacional of Nicaragua.

the other two for complicity in the assault on the International Club August 28, 1925. Under the law, he stated, they had eight days to present their case and demonstrate why they should not be tried on these charges. The President admitted that he did not find sufficient evidence to justify holding them beyond the legal period of ten days on the original charge of conspiring against public order. He said that the case was now in the hands of the court and that he had nothing more to do with it.

EBERHARDT

817.00/6307

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 961

MANAGUA, April 25, 1929.

[Received May 13.]

SIR: I have the honor to refer to various telegrams addressed by the Legation to the Department with reference to a series of arrests made by the Guardia at the order of President Moncada under the authority given to him by Article 112 of the Constitution of Nicaragua, which is translated in part: "When public tranquillity is threatened the Executive may issue orders (*ordenes*) of arrest against persons presumed to be guilty and examine them, placing them at the disposal of a competent Judge within ten days." There are enclosed copies and translations of a letter dated March 25, 1929, addressed to the Legation by the National and Legal Board of Directors of the Conservative Party in Nicaragua and of its enclosure, a report on alleged cases of arrest and persecution of members of the Conservative Party by the present Government.³⁴

There are also enclosed copies of a report to the Legation made by the Chief of the Guardia on April 10, 1929, giving the details as far as they were then known of the cases referred to in the paragraph above.³⁴

General McDougal has informed the Legation that no prisoners are at present being held by order of the President.

Dr. Cuadra Zavala, a Magistrate of the Supreme Court and a prominent member of the Conservative Party, has assured me that the procedure followed by General Moncada in the cases referred to was entirely legal.

General McDougal is still engaged in drawing up a formal system to be presented to the Nicaraguan Congress for its approval, to be followed in the case of all arrests. Under this procedure formal warrants will take the place of the present informal method of order-

³⁴ Not printed.

ing arrests. General McDougal is somewhat handicapped at present by the fact that there is no law officer attached to his command. He expects to effect the transfer of the Brigade law officer as soon as a relief for the latter arrives.

The Department will be informed as soon as General McDougal has completed a draft of the new procedure to be recommended.

I have [etc.]

CHARLES C. EBERHARDT

817.00/6314

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] May 2, 1929.

Doctor Sacasa, Minister of Nicaragua, called on the Secretary on Thursday, May 2. He handed the Secretary a memorandum³⁵ with reference to the arrest and imprisonment of Gabry Rivas and Vargas, stating that he had received a telegram from President Moncada to the effect that the Department had not received exact information in the matter as these arrests had been ordered on account of an attempt to assault the Presidential house. The men were kept in jail for ten days, which is permitted under the Constitution, and that during this time personal enemies of Rivas accused him before the court of assaulting the International Club on August 25. The Secretary observed that that was prior to the issuance of the Amnesty Decree. The Minister agreed and said that President Moncada, in view of the separation of the executive and judicial functions under the Constitution, did not feel that he could interfere. The Secretary stated that Presidential action was not called for but perhaps a Presidential whisper would be sufficient. The Minister stated that the Supreme Court is composed of a majority of Conservative judges and, as Rivas is a Conservative, he thought the matter might well be left there. The Secretary told the Minister that if he were writing to President Moncada he thought it might be well to point out the advisability of living strictly up [to] the Amnesty Decree. Of course, the Secretary was here in Washington and President Moncada was on the ground, but he thought, for his own sake, in order to protect himself against attacks by his enemies, President Moncada would do well to have the Amnesty Decree enforced fully. The Minister said that he would communicate in that sense with President Moncada.

F[RANCIS] W[HITE]

³⁵ Not printed.

817.00/6347½

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1021

MANAGUA, June 5, 1929.

[Received June 24.]

SIR: With reference to the Legation's despatch No. 961 of April 25, 1929, I have the honor to inform the Department that the Court of Appeals of Granada has ordered the liberty of Gabry Rivas and the other persons involved in the assault on the International Club on the ground that the proceedings against the accused were not properly conducted by the Judge of the Criminal Court in Managua. A translation of the important paragraphs of the Court's decision is enclosed.³⁶ It would appear from the decision that the Judge of the Criminal Court in Managua is free to reopen the case if he so desires.

Gabry Rivas was released from the penitentiary on June 3. The other persons involved were already at liberty under bail.

Mr. Rivas called at the Legation yesterday and expressed the intention of leaving Nicaragua and traveling to California. He stated that it would probably be some time, however, before he could carry out this intention since he would be required to remain here until his case is completely closed.

I have [etc.]

MATTHEW E. HANNA

817.00/6400

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1130

MANAGUA, August 24, 1929.

[Received September 3.]

SIR: I have the honor to inform the Department that President Moncada on August 21, 1929, ordered the arrest and confinement of Gabry Rivas on the charge of conspiracy to assassinate him. Included in the conspiracy were also said to be a prisoner in the penitentiary named Simón Torres and an individual named Adán Morales Z. A copy and translation of President Moncada's letter to the Jefe Director of the Guardia Nacional ordering the arrest of these individuals and their release at the end of ten days in case the evidence against them is not sufficient to bring them before the courts are transmitted herewith.³⁶

Gabry Rivas was arrested by the Chief of Police of Managua on the evening of August 21 and is now confined in the local penitentiary. It is understood that Adán Morales Z., one of the other two accused, is a brother of the owner of the house in which President Moncada

³⁶ Not printed.

lives and has only recently returned from the United States where he served as a Nicaraguan Consular Representative.

It is understood that Gabry Rivas was preparing to leave Nicaragua and that he applied at the Foreign Office for a passport on the day he was arrested and confined.

I have [etc.]

MATTHEW E. HANNA

817.00/6438

The Chargé in Nicaragua (Hanna) to the Secretary of State

[Extract]

No. 1143

MANAGUA, September 9, 1929.

[Received October 28.]

SIR: Supplementing my despatch No. 1130 of August 24, 1929, I have the honor to inform the Department that Gabry Rivas and Adan Morales Z. were released from confinement nine days after their arrest on the charge of conspiracy. Investigation of the charge did not produce sufficient evidence to justify a formal accusation against them.

I have [etc.]

MATTHEW E. HANNA

817.00/6439

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1144

MANAGUA, September 9, 1929.

[Received October 28.]

SIR: Supplementing my despatches No. 1021 of June 5, 1929, and No. 1143 of September 9, 1929, I have the honor to report that warrants of arrest were issued on September 7, 1929, by the District Criminal Judge of Managua against the individuals involved in the assault on the International Club, Alfredo Rivas, Manuel S. Miranda, J. Antonio Artiles, Enrique and Adolfo Vargas, Agustín Ruiz and Gabry Rivas. All of the accused persons have presented bail and are at liberty. The charge against Gabry Rivas has been modified to an attempt against personal liberty and the firing of a weapon at the person of General Moncada. He was originally charged with frustrated homicide.

I have [etc.]

MATTHEW E. HANNA

817.00/6411

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1157

MANAGUA, September 19, 1929.

[Received September 23.]

SIR: I have the honor to report that on a number of occasions recently President Moncada has brought to my attention evidence

indicating that elements within and without Nicaragua opposed to his administration are plotting against his Government. The evidence is mainly circumstantial, consisting of reports from his agents, intercepted telegrams and letters and the suspicious acts of individuals.

A day or so ago when I was lunching alone with the President he brought up this subject and showed me the latest batch of such evidence received by him. It is evident that he is greatly disturbed by the menace of the plotting and is pre-occupied with the problem it presents.

The Vice-President, Dr. Enoc Aguado, recently called upon me and discussed one phase of this plotting, and I transmitted a memorandum of our conversation in a personal letter to Mr. Francis White, dated September 17, from which it would appear that Dr. Aguado shares the President's belief that the assassination of President Moncada is a part of the plan of the plotters. Reference is also made in that memorandum to the most recent imprisonment of Gabry Rivas because the President was convinced that Rivas was one of the principal instigators of the proposed attempt against his life, but that he was subsequently set at liberty by President Moncada's order because the President lacked evidence of the sort that would convict Rivas.

The Minister for Foreign Affairs called upon me this morning by the President's direction and, after referring to what the President had told me in this connection when I lunched with him, said that, while it is the President's intention to exercise extraordinary vigilance to prevent any act which may disturb the peace and order of the country, he will nevertheless proceed in this matter with the greatest circumspection and will not resort to extreme measures without having evidence in his possession which will completely justify prosecution in the manner established by law. Dr. Cordero Reyes said that the President wished me to inform the Department that his attitude is as just stated. I asked Dr. Cordero Reyes if there had been any new developments which furnish evidence of the kind mentioned, and he replied in the negative and added that the President merely wanted the Legation and the Department to be advised as stated in the event that he should have to proceed energetically at some future time. The attitude of President Moncada as stated by the Minister of Foreign Affairs is a confirmation of what the President has previously told me on more than one occasion and of the statement made in a public gathering which is mentioned in my memorandum referred to above.

Dr. Aguado told me in his recent conversation with me that he, as a lawyer, had advised the President not to act on incomplete evidence as in the last imprisonment of Gabry Rivas but to increase

the vigilance of his agents and allow the plotters to entangle themselves in a net-work of evidence sufficient to convict them. It may be that the President has accepted this advice and has instructed the Minister for Foreign Affairs to deliver the message stated above in anticipation of possible arrests and prosecutions in the near future.

I have [etc.]

MATTHEW E. HANNA

817.00/6417

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1170

MANAGUA, September 25, 1929.

[Received October 3.]

SIR: Supplementing my despatch No. 1157 of September 19, 1929, concerning reports of plotting against the Nicaraguan Government, I have the honor to transmit herewith a memorandum which briefly summarizes a number of reports of this nature which have recently been made to President Moncada.³⁸

The reports were handed to me yesterday by the Minister for Foreign Affairs who called at the Legation for this purpose by direction of President Moncada. Dr. Cordero Reyes said that the President desires to keep the Legation and the Department informed of these developments. I told him I had already made an appropriate report to the Department in the matter and would also transmit this additional evidence.

Dr. Cordero Reyes then stated that, in view of the increasing danger that the plotters may succeed in instigating disorder if nothing is done to put an end to their activities, the President is contemplating adopting some repressive measure. He said that there is not sufficient evidence to convict any of the individuals under suspicion and that the President therefore hesitates to throw them into prison because he knows that he could not keep them confined indefinitely without assuming dictatorial powers. He says the President continues to assert that he does not wish to adopt this extreme measure unless it is absolutely necessary and that therefore he is also considering giving the appearance of legality to such a procedure by declaring martial law in the Departments affected. He said that the President is greatly disturbed by the responsibility confronting him in this situation which threatens to create conditions in the country which would be a menace to the stability of his Government, and that he fears it will be necessary for him to resort to extreme measures in spite of his previously asserted determination not to do so.

I told Dr. Cordero Reyes that I understood that the President's purpose in keeping the Legation advised in this matter is informative only. I told him that I could not presume on my own responsi-

³⁸ Not printed.

bility to give any advice as to any measures which might be adopted in the circumstances but that I might be permitted to say that, if the character of the evidence is carefully weighed, the situation may not appear so serious or threatening as this Government seems to think. I added that all America apparently is being favorably impressed with the progress President Moncada is making in re-establishing order and peaceful activities in Nicaragua and that it would be regrettable if measures should have to be adopted which would give a serious setback to this favorable impression. I inquired if the President had considered the practicability of meeting the existing emergency by deporting the suspected individuals. He replied that he did not know but that he had already formed the intention of suggesting this measure to the President, combined with a request to neighboring Central American governments that the deported individuals be refused admission to the other Central American states.

I do not doubt that more or less continuous plotting is going on within and without Nicaragua because it is what is normally to be expected, but I do doubt that it is as serious as President Moncada thinks. The statement in the enclosed memorandum attributed to Toribio Tijerino indicates that his plan is to foment banditry throughout the country, and it may be surmised that giving aid to existing banditry would form an essential part of any plan of this sort.

In this connection, the Legation, on August 17, 1929, received a telegram from the Legation at Tegucigalpa transmitting an inquiry of Toribio Tijerino as to whether or not the Marines had any objection to his returning to Chinandega. After discussing the inquiry with the Marine Commander and the Minister for Foreign Affairs, I replied that it would appear that Toribio Tijerino should address his inquiry to the Nicaraguan Government, and I informed the Legation at Tegucigalpa confidentially at the same time that the Nicaraguan Government did not desire Tijerino's return.

I have [etc.]

MATTHEW E. HANNA

817.00/6412 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, September 29, 1929—5 p. m.

[Received 8:30 p. m.]

238. My despatch 1157, and 1170⁸⁹ forwarded by air mail September 20 and 27 respectively.

A warrant was issued on September 27 by direction of President Moncada for the arrest of 13 individuals in Managua, 17 in Masaya, 4

⁸⁹ *Ante*, pp. 596 and 598.

each in Leon and Granada and 1 each in Chinandega and Corinto. The warrant states that "this measure has been taken by the President because there exists complete information that the persons mentioned are endeavoring to alter the order and peace of the Republic," and was addressed to the Chief of the National Guard.

The arrests have been made with the exception of one or two and the prisoners are now confined in the national penitentiary. General McDougal informs me that most of the prisoners have records of previous subversive activities. The list includes no one of outstanding importance. I understand this Government is considering deporting some or all of the prisoners.

HANNA

817.00/6414 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA [October 1, 1929—2 p. m.]

[Received October 1—5:30 p. m.]

241. Supplementing my telegram number 238, September 29, 5 p. m. President Moncada in a long statement published in today's papers gives his reasons for the recent arrests. He states that he has evidence that Conservatives have agreed on Sandino and Pedron in the north, importing arms for them through Honduras as well as supplying them from within the Republic. He says that letters from Sandino to newspapermen in Managua have been found and that one such letter was given to the Minister for Foreign Affairs by a nephew of ex-President Diaz. Toribio Tijerino is charged with conspiring in Honduras to foment banditry throughout Nicaragua. The President refers to specific meetings of persons, whom he names, where plans were made to assassinate and rob. He states there is evidence that General Chamorro is implicated in the movement but is not being molested because he is a Senator and being an habitual revolutionist he covers his tracks. As further evidence of the preparations for disorder he mentions the arms and ammunition which the Government of Panama reported to have been found in the hands of Nicaraguans in Chiriqui Province. He closes the statement with a reference to his duty and says that if energetic action is necessary to save the country he will act with energy.

HANNA

817.00/6418 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, October 3, 1929—4 p. m.

[Received 7:20 p. m.]

243. Supplementing my telegram 241, October 1, 2 p. m. Ortega Diaz, editor of *La Prensa*, was arrested today. His paper has published a number of bitter attacks on President Moncada in connection with the recent arrests, one of which was over his signature. The Minister for Foreign Affairs has just told me that Diaz's arrest was not because of these articles but because of his connection with the alleged plot to assassinate President Moncada. The Minister for Foreign Affairs also told me that he understands some of the prisoners are to be deported and the remainder set at liberty if further investigation does not warrant their trial. Detailed report being forwarded in despatch number 1176 by air mail today.⁴⁰

HANNA

817.00/6420 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, October 4, 1929—noon.

[Received 2:55 p. m.]

244. My 243, October 3, 4 p. m. The following eight prisoners were sent to Corinto this morning for deportation to Mexican port on the steamship *Colombia* due to leave Corinto this evening: Gabry Rivas; Adolfo Ortega Diaz; Salomon de la Selva; Gustavo Manzanares, in whose house the conspirators recently met . . . ; Alfredo Rivas, one-time chief of La Loma fortress and said to be an aide of Chamorro's at the present time; Fernando Larios, alleged to be cooperating with Tijerino and Selva; Enrique Aviles, alleged agent of Tijerino recently returned from Honduras; and Adan Morales, alleged leader in the plot mentioned in my despatch number 1130, August 24, 1929.

I understand that these deportations are based on evidence that those deported were conspiring to create disorder in Nicaragua, and are made under authority of article 112 of the Nicaraguan Constitution.

HANNA

⁴⁰ Not printed.

817.00/6434

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1185

MANAGUA, October 9, 1929.

[Received October 25.]

SIR: Supplementing my telegram No. 244 of October 4, 12 Noon, I have the honor to inform the Department that the eight prisoners referred to therein were deported from Corinto on October 5, 1929, aboard the American steamer *Colombia* of the Panama Mail Steamship Company.

Consul Steger at Corinto informed the Legation by telephone late in the afternoon of October 4 that the deportees had been given neither passports nor visas to permit them to enter any foreign country and that the master of the *Colombia* had refused to accept them as passengers for that reason. The Legation immediately communicated with the Nicaraguan Government which instructed the comandante at Corinto to provide the men with passports and to see that they were supplied with the necessary visas to permit them to be landed at some port between Corinto and San Francisco.

Consul Steger reported on October 5 that the master of the *Colombia* still refused to accept these passengers on the ground that they did not possess the necessary documents to permit their entry into Mexico, to which country the Nicaraguan Government wished to send them. I communicated again with the Foreign Office and was informed that the Nicaraguan Government assumed full responsibility for any losses which might be incurred by the company as a result of the transportation of these passengers. I transmitted this information to Consul Steger at Corinto by telephone and with this understanding the master of the *Colombia* accepted the deportees as passengers. Consul Steger reports that they were issued tickets for Champerico, Guatemala.

I have [etc.]

MATTHEW E. HANNA

817.00/6433

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1189

MANAGUA, October 11, 1929.

[Received October 25.]

SIR: Referring to my despatch No. 1179 of October 4, 1929,⁴¹ transmitting a decree declaring martial law in the Department of Chontales, I have the honor to report that the latest act of the Executive in the Department of Chontales, according to local newspapers, has been to remove the municipal governments in the towns of Boaco, San José de los Remates, Acoyapa, San Pedro de Lóvago, Comalapa, La

⁴¹ Not printed.

Libertad, Santo Domingo and San Lorenzo, all in the Department of Chontales, and replace them with Local Boards (*Juntas Locales*) made up of Liberal citizens.

This act of the Executive Power has of course given rise to bitter criticism by the Conservative press which links this circumstance up with the series of political arrests which have lately been made and states that the latter were carried out merely to give the Government an excuse to remove the Conservative Municipal Governments of Chontales and replace them by Liberal Boards. The Conservatives point this out as an example of the extreme to which President Moncada will go to influence the coming municipal elections in Nicaragua.

I have [etc.]

MATTHEW E. HANNA

817.00/6428 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, October 17, 1929—1 p. m.

[Received 2:08 p. m.]

254. My 244, October 4, noon. I understand that the Nicaraguans in reference were refused entrance to Mexico and are proceeding to San Francisco.

HANNA

817.00/6443

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1203

MANAGUA, October 26, 1929.

[Received October 31.]

SIR: Supplementing my despatch No. 1185 of October 9, 1929, I have the honor to report that señor Cristino Paguaga Núñez, who succeeded señor Adolfo Ortega Díaz as director of *La Prensa*, was arrested and confined on October 24 by order of President Moncada. The immediate cause of his arrest was the publication in *La Prensa* on October 20 of an editorial attacking American policy in Nicaragua in general and in particular accusing Lawrence Dennis, one time American Chargé d'Affaires ad interim in Nicaragua, of having been instrumental in bringing about the Lomazo of 1925.⁴² A translation of the editorial is enclosed.⁴³

La Prensa of October 25 reproduces señor Paguaga's version of the questions propounded to him by the local police judge following his arrest. A translation of the article is enclosed.⁴³

Señor Paguaga is known to be an ardent Chamorrista and has endeavored since he has been director of *La Prensa* to continue that

⁴² For an account of the seizure of the Loma, a fortress dominating the city of Managua, see telegram No. 150, October 25, 1925, 3 p. m., from the Chargé in Nicaragua, *Foreign Relations*, 1925, vol. II, p. 639.

⁴³ Not printed.

newspaper's policy of rabid opposition to the government and to American policy in Nicaragua.

The general opinion appears to be that President Moncada's action in this case is consistent with the attitude that he has taken toward persons suspected of plotting against his government although it is considered by many that the actual pretext for the arrest of señor Paguaga was flimsy. General Emiliano Chamorro called at the Legation on October 25 but made no reference to señor Paguaga's arrest.

I have [etc.]

MATTHEW E. HANNA

817.00/6433

The Secretary of State to the Chargé in Nicaragua (Hanna)

No. 583

WASHINGTON, October 29, 1929.

SIR: The Department refers to the Legation's despatch, No. 1189 of October 11, 1929, concerning the reported removal of the municipal governments of several towns in the Department of Chontales and their replacement by Juntas Locales made up of members of the Liberal party.

The Department fears that this practice, if continued, might, in view of the nature and intensity of political partisanship in Nicaragua, provoke difficulties for President Moncada's administration. You are accordingly authorized, if in your opinion such action appears advisable and upon verification of the accuracy of the report, to discuss this subject orally and informally with President Moncada, stating to him that you have reason to believe that the Department would view with much regret the initiation of a policy which might be interpreted by his opponents as constituting unwarranted interference in the normal political and administrative activities of the Republic.

I am [etc.]

HENRY L. STIMSON

817.00/6459

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1220

MANAGUA, November 5, 1929.

[Received November 11.]

SIR: With reference to my despatch No. 1203 of October 26, 1929, I have the honor to report that Señor Paguaga Núñez, the Director of *La Prensa*, was released from the local penitentiary on October 30 after paying a fine of C\$40.00 imposed by the Local Police Judge. The reason for the fine as explained by *La Prensa* the following day was the publication of the editorial transmitted with my despatch No. 1203, entitled "Those of the Surrender and Youth".⁴⁴

I have [etc.]

MATTHEW E. HANNA

⁴⁴ Editorial not reprinted.

817.00/6443

The Secretary of State to the Chargé in Nicaragua (Hanna)

No. 591

WASHINGTON, November 9, 1929.

SIR: The Department acknowledges the receipt of your despatch No. 1203, dated October 26, 1929, reporting the imprisonment of Señor Cristino Paguaga Núñez, director of the newspaper *La Prensa*, because of an editorial published by him in which the policies of the United States Government in Nicaragua were attacked.

The Department has read the translation of the editorial in question that was transmitted with your despatch, and while the article undoubtedly misjudges and misrepresents the policies of this Government and its representatives the Department is of the opinion that it is not of such a nature as to justify the imprisonment of Señor Paguaga Núñez.

The Department considers that the adoption by President Moncada of any general policy of imprisoning those whose political activities seem aimed against his administration, and as in the present instance against the policies of the Government of the United States, would be most unwise and might very easily lead to greater evils than those which by this means he might seek to overcome. The Department would be especially concerned at the adoption of such a practice because it would involve the Guardia Nacional and consequently the American Marine officers who are detailed to duty with that organization. It is felt that in carrying out the wishes of President Moncada in connection with the detention or deportation of persons whose offenses appear to be merely political, the resentment certain to be incurred would be deflected also toward the Guardia and its American officers, and would thus impair the usefulness of this arm of Government.

You are directed to convey the substance of the foregoing orally and most informally to President Moncada, adding that, as he will of course realize, the ultimate success of the Guardia Nacional de Nicaragua rests upon its non-partisan character, and that when the American Marines shall have been withdrawn the responsibilities of the Guardia will obviously be enormously increased, and unless it shall then enjoy the confidence of the Nicaraguan people it will be unable adequately to meet those responsibilities.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

817.00/6420: Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, November 11, 1929—5 p. m.

158. Your 244, October 4, noon. The Department has informed the Labor Department that so far as it is concerned it has no objection to the admission of these Nicaraguans. Final decision however rests under the law with the Labor Department.

Please communicate the substance of the foregoing orally to ex-President Diaz as the reply to his recent telegram to Minister Eberhardt who has interested himself in the case as the ex-President requested.

STIMSON

817.00/6507

The Chargé in Nicaragua (Beaulac) to the Secretary of State

No. 1230

MANAGUA, November 19, 1929.

[Received December 28.]

SIR: Supplementing my despatch No. 1144 of September 9, 1929, I have the honor to inform the Department that the jury in the case of Gabry Rivas and his associates in the assault on the International Club arrived at a verdict on November 15, 1929. They pronounced Alfredo Rivas and Gabry Rivas guilty of the offenses with which they had been charged and declared Manuel S. Miranda, J. Antonio Artiles, Adolfo Vargas, Enrique Vargas and Agustín Ruiz innocent. A copy and a translation of the verdict published in local newspapers of November 17 are transmitted herewith.⁴⁵

I have [etc.]

WILLARD L. BEAULAC

DISINCLINATION OF THE UNITED STATES TO AMENDMENTS TO THE GUARDIA NACIONAL AGREEMENT⁴⁶

817.1051/239: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 23, 1929—1 p. m.

[Received 4:45 p. m.]

27. The agreement for the establishment of the Guardia Nacional has been before Congress since January 15th. In spite of President Moncada's assurances that the bill will pass without change, the fact that it has not already passed and his apparent willingness to permit Congress to discuss all sorts of proposed amendments, lends color to

⁴⁵ Not reprinted.⁴⁶ For text of agreement, signed December 22, 1927, see *Foreign Relations*, 1927, vol. III, p. 434.

the frequently expressed belief that at heart he is against the bill and while not openly opposing it, would welcome any turn which might cause it to fail to pass Congress. I have felt that I could assure him that the Department has firm faith in his willingness and power to effect the early passage of the bill unamended. A cabled statement to me to this effect at this time from the Department might prove very helpful.

EBERHARDT

817.1051/239 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, January 25, 1929—4 p. m.

12. Your 27, January 23, 1 p. m. You may inform President Moncada that the Department feels that the enactment without any amendments whatever of the law establishing the Guardia Nacional is of vital importance for the welfare and future peace and prosperity of Nicaragua, and add that the Department feels confident that President Moncada can and will effect the passage of this law at an early date.

You may say further that the Department sees no good reason for the re-establishment of the Hacienda Guards, and feels very strongly that such action would be prejudicial to the best interests of the country. It would, furthermore, be contrary to the expressed views of President Moncada himself that order should be maintained throughout the country only by a nonpartisan constabulary under American leadership.

KELLOGG

817.1051/243 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 26, 1929—3 p. m.

[Received 9:15 p. m.]

31. The contents of Department's telegram 12, January 25, 4 p. m., have been conveyed to President Moncada and he again expressed his desire to cooperate in every way with the Department. He has furnished me a copy of the amended guardia agreement as passed by the Chamber of Deputies, which must now go back to the Senate for its approval. He stated that he considers the changes as clarifications rather than amendments and he is desirous of obtaining the Department's consideration and if possible its approval of the amended agreement.

The changes made in the agreement are the following:

Paragraphs 2, 3 and 4 of the preamble have been omitted entirely.

Article 1. The second paragraph has been changed to read: "The above-mentioned provisions shall be the only ones which shall be authorized for the maintenance of the Guardia Nacional and any increase or distribution of them shall be made only by virtue of the prior and express authorization of the Congress."

The third paragraph has been changed to read: "Any surplus from the same above-allotted provisions, if there are any, may be applied by the chief of the Guardia Nacional with the strict [*sic*] consent of the President of the Republic to enlarge the said guardia with a suitable coast guard and aviation unit, similarly officered and manned with appropriate ranks and subject to regulations and discipline as provided herein for the personnel of the Guardia Nacional de Nicaragua."

Article 2. The first sentence is changed to read: "The Guardia Nacional de Nicaragua shall be considered the military and police force of the Republic and the Comandante General shall control it in order to guarantee domestic peace and the security of individual rights." The second and third sentences remain unchanged. In the fourth sentence the following words have been inserted after the word President of Nicaragua "through the proper mediums and". The fifth sentence remains unchanged.

Article 3. The following words have been added at the end of the article "and always under the control and command of the President of the Republic."

Article 4. The first sentence has been changed after the word penitentiaries to read "shall be proposed by the chief of said guardia and approved and issued by the President of the Republic." The second sentence has been changed after the words "under regulations" to read "proposed as above stated by the chief of the Guardia Nacional and approved and issued by the President of the Republic."

Article 5. The first sentence remains unchanged. An entirely new second sentence has been inserted as follows: "Civil offenses or those not included in the foregoing article committed by members of the Guardia Nacional shall be investigated and tried by the judicial authorities of the country who may order sent to them any judicial proceedings investigated by officials of the guardia for the due classification and punishment of the offense." The third sentence reads the same as the second sentence in the original agreement.

Article 7. This entire article has been changed as follows: "Persons violating the regulations and the laws governing the traffic in arms, ammunitions and military stores, shall be punished by the civil authorities with fine, arrest or imprisonment for which purpose the Government of Nicaragua will present to Congress a project of law to establish or amend the criminal laws in the sense indicated."

Articles 6, 8, 9, 10, 11, and 12 remain unchanged.

The foregoing proposed amendments have been submitted to the Department merely as a courtesy to President Moncada, to whom I have made it plain that in my opinion the changes do not merely "clarify" the meaning of the language, as he states, but change the agreement so radically as virtually to destroy the purpose for which it is intended and to leave the Department little recourse but to refuse to accept them. For instance, in the penultimate paragraph of the article 1 the word "only" has been substituted for "minimum"; in article 2 the word "sole" has been omitted entirely when reference is made to the military and police force.

Please cable early reply since the agreement is expected to be resubmitted to the Senate on the 29th.

EBERHARDT

817.1051/243 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, January 28, 1929—noon.

16. Your 31, January 26, 3 p. m. Please request that no further action be taken on the Guardia agreement until the Department has had an opportunity to study the proposed amendments and consider very carefully all phases of the new situation.

KELLOGG

817.1051/243 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, January 29, 1929—7 p. m.

18. Your 31, January 26, 3 p. m. Please telegraph whether request contained in Department's 31, January 26, 3 p. m. [*16, January 28, noon?*] is being complied with and approximately how much longer Congress will be in session. Also, give your personal opinion on the following questions:

(1) Whether Congress or President Moncada is responsible for the amendments.

(2) What the probable effect on the situation would be if the Department should decide that it is unable to agree with these amendments.

(3) The probability that the existing agreement will be continued in force as hitherto if Congress should adjourn without taking final action.

Please telegraph carefully considered estimate of the situation including a discussion of the relations between Congress and the President.

KELLOGG

817.1051/257

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 907

MANAGUA, January 30, 1929.

[Received February 9.]

SIR: With reference to my telegrams No. 27 of January 23rd (1 p. m.) and No. 31 of January 26th (3 p. m.), I have the honor to report that shortly after the opening of the present Congress the Acting Minister of Foreign Affairs submitted to the Chamber of Deputies for its consideration the agreement between the United States and Nicaragua for the establishment of the Guardia Nacional. It will be recalled that at the last session of Congress this agreement was approved without any changes by the Nicaraguan Senate on January 10, 1928.

The agreement was referred by the Chamber to committee. It was also submitted to the Supreme Court for its opinion, and that body replied that the agreement should be either accepted or rejected in its entirety by Congress but that it should not be amended or changed in any way, since it was an international convention. The committee submitted a favorable report in the sense that it should be approved without modifications.

Discussion of the agreement on the floor of the Chamber of Deputies began on January 15th. In spite of the favorable reports of both the Supreme Court and the House Committee, very marked opposition to the agreement immediately manifested itself from both Liberal and Conservative deputies. Numerous amendments were proposed, and a number of them were passed after rather heated debates.

In the midst of the discussions a motion was passed to invite the Acting Minister of Foreign Affairs to appear before the Chamber to explain what the attitude of the Executive would be regarding changes or modifications in the agreement. The fear was expressed by certain Deputies that in view of international arrangements entered into, obviously referring to the Tipitapa Agreement,⁴⁷ the Executive might later on consider itself obligated to give its approval to and promulgate the unamended convention by decree, as was done in the case of the Electoral Law, thus injuring the prestige of the Congress.

The Acting Minister of Foreign Affairs on January 18th appeared before the Chamber of Deputies and his remarks were in substance the following. He stated that one of the provisions of the Tipitapa agreements was the establishment of a Guardia Nacional which would

⁴⁷ i. e., the agreement between Colonel Stimson and General Moncada, confirmed by Colonel Stimson's note to General Moncada, dated at Tipitapa, May 11, 1927, *Foreign Relations*, 1927, vol. III, p. 345.

exercise the military and police control in Nicaragua; that the Tipitapa agreements, entered into for the purpose of putting an end to a disastrous and bloody revolution, created a special extraconstitutional status of law in the Republic; and that while the agreement had not been approved by Congress, the Guardia Nacional as a vital necessity for the country had existed up to the present time by virtue of that special status of law. He then expressed the opinion that the special status had been terminated by the carrying out of a free and fair election; that consequently the Congress obviously had the right and the obligation to study the agreement and decide whether it conformed to the Constitution and laws of the country; and that he knew of no commitments of the Nicaraguan Government beyond those expressed in the letter of the agreement itself. He added that the agreement responded to a vital national necessity and that the Executive believed that the Guardia Nacional, as it is planned in the convention, is the only means of preserving peace and order in Nicaragua. He also defended the Guardia against the numerous attacks which had recently been appearing in the press against it, and said that the necessities of the electoral period, the maintenance of peace and the brief time allowed to organize it did not permit those in charge to put into practice as careful a selection of its members as was desired nor to give the organization the necessary preliminary training.

This expression of the opinion of the Executive that Congress had the right and duty to decide whether the convention conformed to the Constitution and laws of Nicaragua undoubtedly encouraged the Deputies to persist in their intention of materially modifying the agreement.

During the discussion of the agreement by Congress I called several times on President Moncada to urge him to use his influence with Congress to bring about the enactment of the law without amendments because of its vital importance for the welfare and future peace and prosperity of Nicaragua. On each occasion he expressed his desire to cooperate in every way with the Department and he assured me of his belief that the Chamber of Deputies would pass the law without changes in spite of the fact that all sorts of amendments were being proposed by certain Deputies. He finally informed me that he would have had the bill approved at once by the House if he had the power to do so, but that this was not possible because there was a Conservative majority in the Chamber and the same element which had prevented its passage last January under Chamorro's leadership were opposing it at the present time, still influenced in this attitude by Chamorro. It is true that the loudest denunciations of the agreement have emanated from a few hothead Conservative deputies who were formerly and probably still are

followers of Chamorro, but it is also well known that a number of Liberal members strongly opposed it.

All the newspapers of Managua, Leon and Granada, both Liberal and Conservative, with the sole exception of the Independent Conservative *Diario Nicaraguense* of Granada, have recently been violently attacking the Guardia agreement chiefly on legal and constitutional grounds and have been publishing exaggerated reports of improper conduct by enlisted members and some junior officers of the Guardia. In view of the splendid work of this organization under the administration of President Diaz, which has been almost universally recognized, it can only be assumed that this unjust and unfavorable comment has been principally inspired by leaders of both parties who, it is generally believed, are at heart opposed to a constabulary with such broad powers, and it is felt that either side would defeat the bill if in so doing it could successfully place the blame on the other party.

As the Department was informed in my telegram No. 31 of January 26th (3 p. m.), the bill was passed on first reading by the Chamber of Deputies with various amendments, and a copy of the modified agreement in Spanish is transmitted herewith.⁴⁸ When President Moncada supplied me with the text of the amended agreement, he stated that he considered the changes as clarifications rather than amendments and that he was desirous of obtaining the Department's consideration and, if possible, its approval of the modified convention. I have made it plain to him that in my opinion the changes did not merely clarify the meaning of the language as he stated, but that they changed the agreement so radically as to virtually destroy the purpose for which it was originally intended.

The bill must now be resubmitted to the Senate. In compliance with the request contained in the Department's telegram 16 of January 28th (12 m.), I have been assured that further action will be postponed on the Guardia agreement until the Department has had an opportunity to study the proposed amendments.

I have [etc.]

CHARLES C. EBERHARDT

817.1051/245 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, January 31, 1929—2 p. m.

[Received 8 p. m.]

34. Complying with request contained in your 16, January 28, noon, I have the following to report:

Congress is now (today) in its 40th session with 5 more regular and 15 extraordinary to follow.

⁴⁸ Not printed.

My personal opinions with regard to the Department's questions are:

(1) Congress is primarily responsible for the amendments.

(2) If I should hand to President Moncada in the form of a strong note the Department's decision that it cannot accept the amendments, preferably in the presence of both Sellers and Feland⁴⁹ early next week, the agreement should pass unamended. This is concurred in by the best informed Nicaraguans and Americans here.

(3) It appears very probable that the existing agreement will be continued in force as heretofore should Congress adjourn without taking final action, but Vice President Aguado has informed me confidentially that he is certain that it will not reach that stage.

The people of Nicaragua are seemingly unanimously in favor of the guardia under American officers. Many political leaders of both parties are opposed to a strong constabulary and would defeat it if by doing so they could throw the blame on their opponents. For a time this appeared to be Moncada's own attitude, but my insistence that the bill be passed unamended appears to have had its effect, and it is believed that he can and will effect this. Moncada's statement that the Conservative majority would prevent him from carrying out our wishes is hardly to be taken too seriously. Some weeks ago he told me that even with this majority he felt that he could always find a way to win over the required votes from the Conservatives if this became necessary. This morning he stated that it seemed best to let Congress discuss the guardia bill for a few more days at the end of which he felt he could secure the passage of the bill unamended.

EBERHARDT

817.1051/256: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 9, 1929—4 p. m.

[Received 8 p. m.]

46. Referring to my cable of January 31, 2 p.m. The present Congress now has but 13 sessions before adjournment. While further consideration of the guardia agreement by Congress has been suspended in compliance with Department's request, it is becoming increasingly difficult for the President to withstand the pressure of certain deputies to take final action on it at once. It is now reported that still further amendments are being contemplated. Since the arrival of Admiral Sellers here, he has definitely stated to me and to Rosenthal, Lindberg⁵⁰ and others that in conformity with General

⁴⁹ Rear Admiral David Foote Sellers, U. S. N., Commander of the Special Service Squadron; Brigadier General Logan Feland, U. S. M. C., Commander of the Second Brigade.

⁵⁰ L. S. Rosenthal, manager of the Banco Nacional de Nicaragua; Irving A. Lindberg, Collector General of Customs and member of the High Commission of Nicaragua.

Feland he does not see why amendments to the agreement satisfactory to the Nicaraguan Government should not be accepted. There appears to be little doubt that this attitude of both the Admiral and Feland is having the effect of encouraging President Moncada to disregard my representations that the Department feels strongly that the agreement should be ratified without modifications.

In view of the short time left for Congress to consider the agreement, an early instruction regarding the Department's views would seem desirable.

EBERHARDT

817.1051/260 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 14, 1929—3 p. m.

[Received 7:40 p. m.]

48. On February 4 the jefe politico of Rivas telephoned to the guardia chief of that department and demanded that the entire guardia outpost at Belen be relieved and replaced by new men. The former gave as his reason for this order that these men were on friendly relations with certain unnamed persons whose actions are antagonistic to the present administration. In view of the very serious effect of such a precedent, General Beadle⁵¹ requested the President that when troop movements are recommended by jefes politicos such recommendations be submitted to him by the President. The private secretary of the President under instructions replied in substance that the emergency law of the Guardia Nacional confers on the President complete control of this institution, but that the orders of the Executive are sent through the medium of his Secretaries of State. He stated that according to the law governing jefes politicos they are the representatives of the Executive in their respective departments. Consequently the chief of the guardia in each department must obey the jefe politico in all matters over which the law gives him jurisdiction, and when the departmental guardia chiefs are required to carry out such orders of the jefes politicos they must obey upon receipt of the orders advising General Beadle who in turn will communicate with the President through the Secretaries of State. He said also that the jefe politico of Rivas acted correctly in the above instance. He added that the President intends to exercise control over the guardia through his Secretaries of State and his jefes politicos without contravening the law or the Constitution but giving each one his due, and that the same considerations must be given to the judiciary whom the Guardia Nacional must obey. The tone of the letter is distinctly antagonistic.

⁵¹ Elias R. Beadle, Chief of the Guardia Nacional of Nicaragua.

On various occasions recently General Moncada has expressed to me his opinion that a non-partisan guardia cannot be established at the present time and it is becoming increasingly evident that he intends to make it a partisan organization. In view of the apparent attempt to weaken the guardia, the Conservatives are expressing deep concern and feel that under the circumstances they cannot expect the protection and justice which they were led to believe they would enjoy under the present administration.

The many recent interferences with the conduct of the guardia are tending to create a spirit of discouragement among the American officers of that organization. I am informed that several of those whose two years of duty will expire shortly and who planned to continue in Nicaragua are now preparing to leave. Others now on leave in the United States who intended to come back for duty here with the guardia have decided not to return.

E^BERHARDT

817.1051/256: Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, February 14, 1929—6 p. m.

26. Your 46, February 9, 4 p. m. It was the hope of the Department, as stated by you previously, that President Moncada would be able to secure the passage of the bill without amendments. Of course you will appreciate that it is vitally important that a satisfactory agreement be voted and if, by accepting certain of the suggested amendments, it will help to bring this about, the Department would have no objection. For example, there would seem to be no objection to the amendment of the preamble, as telegraphed up by you, nor of the second paragraph of article 1, and, if insisted upon, the proposed amendments to articles 4, 5 and 7 also would appear to be acceptable. Likewise, although the Department would prefer that the second amendment to article 2 and the amendment to article 3 should not be made, it would not insist if the changes suggested would bring about the acceptance of the agreement.

The Department feels that it must insist that no change be made on the following two principal points: The first amendment to article 1 in which it is stipulated that the foregoing provisions shall be "the only ones" which shall be authorized, rather than regarded as "the minimum requirements." Similarly, the Department feels that it cannot accept the first change suggested in article 2. The Department regards it as essential to the proper functioning of the guardia and the carrying out of the Stimson Agreement that the Guardia Nacional shall be "the sole military and police force of the Republic."

It is the desire of the Department that you impress upon President Moncada that the purpose of the Tipitapa Agreement was to bring about permanent peace, order, and stability in Nicaragua, and the Department is confident that he will agree with it that this condition has not yet been brought about. The Department, prior to the elections, exerted its utmost influence with the then Nicaraguan Government to have it scrupulously live up to that Agreement and during all that time General Moncada was insisting upon strict compliance with it. The concern of this Government is in having peace and order prevail in Nicaragua and it has not and will not support any political party or faction. The Department is obliged therefore to call just as firmly to the attention of President Moncada's Government the obligations of that agreement as it did to his predecessor's government; and if President Moncada will consider the matter in this light, the Department feels confident that he will support the original text of the guardia agreement in the cases mentioned above. Particular reference in this case is made to the provision in the Stimson Agreement that the guardia will be the sole military establishment of the Republic of Nicaragua. This provision cannot be carried out with the amendment to article 2 as proposed. Likewise, if the guardia is to be effective and efficient, it should not be hampered through a curtailment of funds such as would be possible should the first amendment to article 1 be made.

The changes referred to above, you will understand, are those set forth in your previous telegram. It might be possible, in view of the statements made in your previous despatch, that President Moncada could get the agreement through more easily without any modifications by standing on the Tipitapa Agreement and the advisory opinion given by the Supreme Court to the Congress. The Department therefore wishes you to communicate the above to President Moncada, and to him only, in strict confidence, making it clear to him that he is considered by the Department responsible for the whole matter.

Regarding the independent political activities of officers of the American armed forces in Nicaragua, the Department's attitude with reference thereto has been set forth to you in the past and is in point in the situation described in your telegram No. 46. This is fundamental and the Department wishes it to be fully understood that there is no difference of opinion with the Navy Department regarding this. I hope that it will not become necessary for the Navy Department to issue any direct orders to the officers immediately concerned on this subject.

KELLOGG

817.1051/260 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, February 15, 1929—6 p. m.

27. Withhold action on Department's 26, February 14, 6 p. m., pending further instructions.

KELLOGG

817.1051/256 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, February 16, 1929—noon.

29. This is to supplement the Department's telegram No. 26 of February 14, 6 p. m.

The Department must insist, in view of your telegram No. 48 of February 14, 3 p. m., that the second proposed amendment to article 2 shall not be made and the agreement shall continue to provide, as drafted, that the guardia "shall be subject only to the direction of the President of Nicaragua". Your telegram under acknowledgment would seem to indicate that these changes come from President Moncada himself. It is desired that you explain very carefully to President Moncada that the Department will look to him for the handling of this situation and you will also make it clear that a non-partisan guardia is provided for in the Stimson Agreement and that any attempt to make the guardia a partisan organization is a direct violation of that agreement; that if it is persisted in this Government will be obliged to consider very carefully withdrawing not only the marine officers who are in the guardia but all of the marines as well. Please point out to him the dissatisfaction existing among the American officers in Nicaragua, which has been caused by the many recent interferences in the conduct of that organization, as described in the last paragraph of your telegram referred to, and state that if this dissatisfaction continues it will inevitably mean the disruption of the guardia, and that should it continue this Government would naturally not feel like insisting that its officers remain in Nicaragua.

You will please point out to President Moncada very frankly that the future peace, order, and prosperity of Nicaragua is involved in this matter and that if he persists in his present attitude toward the guardia, he will make himself responsible for the disorder and turbulence which is bound to follow.

By laying the situation frankly and forcibly before the President, the Department feels that it has discharged its duties in the matter; and if President Moncada decides to hamper and turn the guardia into a partisan organization, after having been thus fully advised

of the consequences which this Government feels must inevitably follow, he alone will have to shoulder the responsibility. If this Government should withdraw from the guardia and withdraw its marines at this time, it would be impelled, of course, in fairness to itself, to state publicly and frankly the reasons which have prompted it to do so.

The Department has consulted Admiral Hughes and General Lejeune,⁵² since sending its telegram No. 26 of February 14, 6 p. m., with respect to the proposed amendments and supports their recommendations that the second amendment to article 1 and the amendments to articles 5 and 7 should not be made.

KELLOGG

817.1051/261 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 18, 1929—5 p. m.

[Received 8:45 p. m.]

49. The pertinent parts of the Department's 26, February 14, 6 p. m., and 29, February 16, noon, have been placed frankly and squarely before President Moncada today.

With reference to the guardia agreement, the President stated in substance that it is his opinion and that of some of the best local lawyers that the original article 5 without the proposed amendment is unconstitutional and that he cannot therefore insist that Congress approve this article without that amendment. He assured me that if the Department would accept it with this single amendment he would have no difficulty in having the agreement approved by Congress. He said that rather than insist that Congress pass the law without this amendment to article 5 he would prefer that Congress be permitted to adjourn and allow the guardia agreement to continue in force as heretofore. In the latter case he would give it his full support to make it effective as at present.

I have requested the opinion of some of the best local lawyers and several of them state that they can not find anything unconstitutional in the agreement and it appears to depend very much on the political affiliations of the lawyers as to their opinions in this case. I am strongly of the belief that the proposed amendment [to] article 5 is very harmful and would be a dangerous weapon which might be used to weaken the guardia or to make it a partisan organization and that it would be preferable, if the original agreement cannot be approved without any amendment, to allow it to continue in force as heretofore without being discussed further by the present Congress.

⁵² Charles F. Hughes, U. S. N., Chief of Naval Operations; John A. Lejeune, U. S. M. C., Commandant of the Marine Corps.

An early instruction from the Department as to whether it can accept the above-mentioned amendment is requested. On February 21 Congress plans to take a recess for about two weeks to study the budget, after which recess there will be but three sessions. It is intended to follow the usual custom to indefinitely prolong the last session to take up all unfinished business. While it is possible that the guardia agreement might be discussed tomorrow or Wednesday it appears more probable that its consideration will be deferred until after the recess.

When I called President Moncada's attention to the recent tendencies to inject partisanship into the guardia, he stated that General Beadle had worked so long with the former Conservative administration as to have become partisan in favor of the Conservatives, but that any successor to Beadle who demonstrates his fairness will be given a free hand in the control of the guardia. He added that the new chief of the guardia will be given instructions by him that he must cooperate closely with the commander of the marines. This Legation is convinced that Beadle has been entirely non-partisan, and this is the opinion of all fair-minded people. It is evident that Moncada's opposition to Beadle is based largely on the fact that he cooperated so successfully with a Conservative administration.

EBERHARDT

817.1051/263 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 20, 1929—4 p. m.

[Received 8:35 p. m.]

51. The guardia agreement was passed yesterday by both Houses of Congress with important amendments, the text of which will be telegraphed later to the Department. When the President gave me this information he stated he had endeavored unsuccessfully to prevent Congress from discussing the agreement further until a reply had been received from the Department as to whether it could accept the amendment to article 5. . . . When the agreement was about to be brought to a vote in the Lower House, after they were unsuccessful in preventing its consideration, all but three of the Chamorrista Conservatives left the chamber in the hope that there would not be a quorum, but sufficient Cuadra Pasista Conservatives remained to form the desired quorum. I suggested to the President that he withhold his executive approval today so that consideration might be given to the views of the Department requested in my telegram 49, February 18, 5 p. m., but he declined to do so for the reason that he still strongly favored the agreement with amendments.

EBERHARDT

817.1051/265 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 21, 1929—noon.

[Received 4:19 p. m.]

52. Supplementing my 51, February 20, 4 p. m. The President has now furnished me with a copy of the amended guardia agreement as passed by Congress. The modifications are the same as those described in my telegram 31, January 26, 3 p. m., with the following exceptions:

Article 1. In the last paragraph the words "strict consent" should read "written consent".

Article 2. In the first sentence the word "sole" which was omitted has been replaced. In the fourth sentence after the words "it shall be subject only to the direction of the President of Nicaragua" the following phrase has been inserted "through himself or through the proper mediums".

Article 5 has been completely changed and now reads in its entirety: "Infractions not included in the foregoing article and which constitute civil crimes or offenses which are committed by the members of the Guardia Nacional shall be investigated and tried by the civil authorities of the country."

Article number 8. At the end of the first sentence the following words have been added "through himself or through the proper mediums".

Article number 9. At the end of the last sentence the following words have been added "with the approval of the President of the Republic".

Article 12. In the second sentence after the words "all American officers serving with the Guardia Nacional of Nicaragua" the following words have been inserted "must speak Spanish and".

EBERHARDT

817.1051/264 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 21, 1929—5 p. m.

[Received 7:35 p. m.]

53. The guardia agreement with the amendments described in my telegram 52, February 21, noon, has been signed by the President.

Congress went into recess today for the purpose of studying the budget. It will reconvene on March 5th for its two final sessions.

EBERHARDT

817.1051/268 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 7, 1929—3 p. m.

[Received 7:54 p. m.]

68. The President this morning advised me that funds necessary for minimum strength of guardia as provided in amended bill are included in budget ready to be presented to Congress, and that additional funds necessary during the year will be supplied by him out of the surplus.

I reminded him that new guardia bill did not become effective until agreed to by the United States. He told me that he would act in accordance with that theory, but maintained that technically the new agreement was law as soon as published.

He intimated that he would like to be informed of the Department's attitude regarding the amended bill. The President stated that no official copies of the law had been prepared yet pending minor corrections in the text.

EBERHARDT

817.1051/272a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, March 27, 1929—6 p. m.

45. Please confer with McDougal and report fully by telegraph regarding the present situation of the Guardia and Moncada's attitude toward it. Does McDougal feel that he is being allowed sufficient independence and given sufficient support by the Government to enable him to develop the organization properly? Is there any difficulty regarding funds? Has there been friction in connection with the volunteer forces and the reestablished Hacienda Guards? Is recruiting proceeding satisfactorily? The Department would like to have full information on these points, and on any other matters of importance relating to the Guardia, and desires your recommendations and those of McDougal if any action toward improving the status of the Guardia appears necessary.

The Department assumes that President Moncada understands that this Government still has under consideration the proposed amendments to the Guardia Agreement and that it is not to be understood that the Department has acquiesced in these amendments.

KELLOGG

817.1051/280

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 942

MANAGUA, March 30, 1929.

[Received April 10.]

SIR: I have the honor to enclose a copy and a translation of the amended Guardia Agreement as passed by the Nicaraguan Congress on February 21, 1929, and signed by President Moncada.

As the Department was informed in my telegram No. 68 of March 7 (3 p. m.), I have reminded President Moncada that the bill, being in the nature of an international agreement, cannot go into effect unless and until approved by both parties to it. He stated at that time that that would be his attitude toward it, although, as a matter of fact it was law as soon as published. I have not since discussed the matter of the legality of the amended agreement with him since he has shown no disposition to try to enforce it.

BUDGET

The new budget carries a provision for \$689,132 for the maintenance of the Guardia, or the sum needed for the maintenance of the minimum strength provided for in the original agreement. President Moncada has promised in addition to make available from surplus revenues a sufficient sum to raise the total for the maintenance of the Guardia to \$1,000,000.

GENERAL McDUGAL

General McDougal, who relieved General Beadle as Chief of the Guardia has lately completed a tour of inspection of the northern area, during which he has been able to form certain impressions concerning the Guardia which conform in the main to those already formed by the Legation.

VOLUNTEERS

General McDougal, in the first place, is convinced that President Moncada's force of Volunteers has no place in the military system as envisaged and provided for by the Guardia Agreement.

Both he and Colonel Dunlap, at present commanding the Brigade, agree that certain advantages have followed the operations of the Volunteers. In the first place their activities have given the Nicaraguans resident in the affected area a feeling that the Nicaraguan Government is firmly behind the Marines in their campaign against the bandits. In the second place the Marines have acquired from the Volunteers much useful information. Thirdly, operations of the Volunteers have released many Marines for work in other sectors.

On the other hand these same advantages would have accrued to a greater or less degree had a corresponding additional number of Guardia been provided for with the funds used for the maintenance of the Volunteers and the application of the funds to the Guardia would have been productive of more permanent good. This was the opinion of General Beadle and is that of General McDougal. The Legation concurs in it fully.

General McDougal has pointed out to President Moncada that the Volunteers are themselves potential bandits. He foresees possible difficulties when large numbers of them are released without money, employment or adequate clothing. It would be difficult even now to prevent groups of them from deserting and themselves engaging in bandit operations.

MOBILE BATTALION

General McDougal has obtained the President's consent to the formation of a Mobile Battalion of 200 to 250 Guardia to be used in active operations against the bandits. General Feland, prior to his departure, consented to an arrangement under which this Battalion would assume the responsibility for operations against bandits in the dangerous Peña Blanca area.

The Mobile Battalion will be placed under the command of Colonel Lowell, G. N., and the Brigade will cause to be withdrawn from the area affected all Marine officers not junior to Colonel Lowell so that the latter will be the senior officer present and, therefore, in charge of combined Marine and Guardia operations.

It is anticipated that the new Mobile Battalion will be given a period of sixteen days intensive training, commencing April first, and that they will proceed to the Peña Blanca area immediately thereafter. General McDougal intends to use the Mobile Battalion as an entering wedge with which to bring about the eventual elimination of the Volunteers. Practically all of the \$45,000. appropriated for the maintenance of the latter has been expended and a large number of the Volunteers themselves are being withdrawn at their own request. One group of forty-seven have resigned and turned in their arms during the last few days.

HACIENDA GUARDS

General McDougal agrees with the Legation that the system of Hacienda Guards is vicious and calculated to detract from the effectiveness of the Guardia.

These men are disorganized and not uniformed and on at least one occasion lately a patrol of Marines narrowly escaped from firing on a group of them which they met on a trail, under the impression that they were bandits. The danger of an accidental clash be-

tween the Marines and the Guardia, on the one hand, and the Hacienda Guards, on the other is always present.

The Conservative Party and press justly observe that the Hacienda Guards constitute a Liberal Army subject only to the will of the Executive. The possibilities of abuse of power by the Executive through these Guards are evident.

OPINION OF LEGATION

There can be no doubt that both the system of Volunteers and that of the Hacienda Guards are in direct violation of the Guardia Agreement, which provides in Section II that "The Guardia Nacional de Nicaragua shall be considered the sole military and police force of the Republic, clothed with full power to preserve domestic peace and the security of individual rights".

It is very apparent that President Moncada has been permitted to violate the above section of the Guardia Agreement in an open and flagrant manner.

It is likewise apparent to observers in Nicaragua and especially to those who have had experience in similar situations in other countries that such flagrant and open violation of the letter and spirit of the Guardia Agreement, if allowed to persist, will largely destroy the effectiveness of the Guardia and will place the United States in the position of lending its men and influence to maintain in force a regime which is violating its international agreements and the obligations it solemnly incurred toward both the United States and the people of Nicaragua.

It is too early to say that it is General Moncada's purpose to definitely evade the responsibilities which his Government incurred under the Tipitapa Agreement and later promises, although the Minister of Foreign Affairs in his discussion of the Guardia Agreement before Congress early in February stated in so many words that the Tipitapa Agreement could no longer be considered to be binding. He explained to the Congress that the Tipitapa Agreement, entered into under the very special conditions existing in the country at that time, created what might be called an extraconstitutional status of law, and it was by virtue of this special status that the original Guardia Agreement was entered into. This special extraconstitutional status was terminated when the supervised elections of 1928 were successfully completed.⁵³ At that time the country returned to its constitutional status and the Tipitapa Agreement ceased to be binding upon the Nicaraguan Government. It followed, therefore, that the Nicaraguan Congress should look into the Guardia Agreement with a view to determining whether it might not be necessary to make certain amendments to it to make it conform to the reestablished constitutional status.

⁵³ See *Foreign Relations*, 1927, vol. III, pp. 350 ff.

It is believed that in the beginning of his administration President Moncada received and followed bad advice, and his insistence on the maintenance of the Volunteers and the Hacienda Guards may arise from that circumstance rather than from any firm purpose to defeat the agreements entered into by the Nicaraguan Government. Indeed, in many ways, he has lately shown a real desire to exert his influence to enhance the prestige of the Guardia.

It is not believed, however, that this circumstance should in any way induce the Department to agree to any compromise calculated in the long run to defeat the purpose of our cooperation, such as the continued co-existence with the Guardia of such military organizations as the Volunteers and the Hacienda Guards.

The Legation has preferred not to discuss these matters of late with President Moncada largely since the latter is naturally waiting for the re-action of the new administration in the United States and the Legation has believed it best that the Department's decision with reference thereto be presented with all the force of a permanent policy arrived at by the new administration after mature and careful study.

It is believed that the Tipitapa Agreement and the original Guardia Agreement form a basis on which the United States can effectively cooperate to promote security and permanent progress in Nicaragua. No radical departure therefrom or serious compromise tending to weaken the authority of the United States should be contemplated. The authority of the United States derived from these agreements represents in the opinion of the Legation the minimum under which the United States can work with reasonable hope of accomplishing permanent good and without fear of actually using its power and influence to perpetuate and emphasize the very weaknesses in the Nicaraguan system which those agreements seek to remedy.

I have [etc.]

CHARLES C. EBERHARDT

[Enclosure—Translation⁴⁴]

Amended Guardia Nacional Agreement as Passed by the Nicaraguan Congress, February 21, 1929

I

The Republic of Nicaragua undertakes to create without delay an efficient constabulary to be known as the Guardia Nacional de Nicaragua, urban and rural composed of native Nicaraguans, the strength of which and the amounts to be expended for pay, rations, and expenses of operation, et cetera, shall be as set forth in the following table:

⁴⁴ File translation revised.

COMMISSIONED PERSONNEL

	<i>Per Annum \$Gold</i>
1 Brigadier general	\$3,000.00
1 Colonel, Chief of Staff	2,500.00
3 Colonels (Line), at \$2400 per annum	7,200.00
1 Colonel, quartermaster	2,400.00
1 Colonel, medical	2,400.00
4 Majors (Line), at \$2100 per annum	8,400.00
1 Major, paymaster	2,100.00
1 Major, general headquarters inspector	2,100.00
1 Major, law officer	2,100.00
2 Majors, medical, at \$2100 per annum	4,200.00
10 Captains, at \$1800 per annum	18,000.00
2 Captains, medical, at \$1800 per annum	3,600.00
20 First lieutenants, at \$1200 per annum	24,000.00
2 First lieutenants, medical, at \$1200 per annum	2,400.00
20 Second lieutenants, at \$900 per annum	18,000.00
3 Second lieutenants, medical, at \$900 per annum	2,700.00
20 Student officers (cadets), at \$600 per annum	12,000.00
<hr/>	
93	\$117,100.00

ENLISTED PERSONNEL

4 Sergeants major, at \$40 per month	\$1,920.00
10 First sergeants, at \$35 per month	4,200.00
10 Q. M. sergeants, at \$30 per month	3,600.00
60 Sergeants, at \$25 per month	18,000.00
120 Corporals, at \$18 per month	25,920.00
20 Field musics, at \$14 per month	3,360.00
840 Privates, at \$12 per month	120,960.00
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1064	\$177,960.00

BAND

1 Leader	1,200.00
1 Assistant leader	900.00
10 Musicians, 1st class, at \$30 per month	3,600.00
10 Musicians, 2nd class, at \$25 per month	3,000.00
15 Musicians, 3rd class, at \$20 per month	3,600.00
<hr/>	
37	\$12,300.00

ENLISTED MEDICAL PERSONNEL

1 First sergeant, at \$35 per month	420.00
4 Sergeants, at \$25 per month	1,200.00
20 Corporals, at \$18 per month	4,320.00
10 Privates, at \$12 per month	1,440.00
<hr/>	
35	\$7,380.00

OPERATIONS AND MAINTENANCE

Per Annum
\$Gold

Civil employees; uniforms and clothing; arms equipment and target practice; remounts and forage; motor vehicles and maintenance; repairs and replacements; transportation of supplies and troops; maps, stationery, and office supplies; intelligence service; rent, repairs and construction of barracks; gasoline, kerosene; lights; tools and miscellaneous expenditures for operations and maintenance of the constabulary	\$200, 000. 00
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RATIONS

Expenses of procuring and preparing rations for 1136 enlisted at \$0.30 per diem	\$124, 392. 00
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PRISONS AND PENITENTIARIES

Operation and maintenance	\$40, 000. 00
Medical supplies and maintenance of constabulary hospitals, prison dispensaries, etc	10, 000. 00
Grand total	<u>\$689, 132. 00</u>

The foregoing provisions shall be the only ones which shall be authorized for the maintenance of the Guardia Nacional, and any increase or distribution thereof shall be made only by virtue of the prior and express authorization of Congress.

The surplus from the same above-stated provisions, should there be any, may be applied by the Chief of the Guardia Nacional with the written consent of the President of the Republic to enlarge said Guardia with an adequate Coast Guard and aviation unit; the organization of these bodies and their management being made by officers with appropriate ranks and subject to the regulations and discipline established in this agreement for the personnel of the Guardia Nacional de Nicaragua.

II

The Guardia Nacional de Nicaragua shall be considered the sole military and police force of the Republic and the Comandante General shall make use of it (*y de que dispondrá el Comandante General*) to preserve domestic peace and the security of individual rights. It shall have control of arms and ammunition, military supplies and supervision of the traffic therein throughout the Republic. It shall have control of all fortifications, barracks, buildings, grounds, prisons, penitentiaries, vessels, and other government property which were formerly assigned to or under the control of the Army, Navy, and

Police Forces of the Republic. It shall be subject only to the direction of the President of Nicaragua, through himself or through the proper channels (*por sí o por los organos correspondientes*); all other officials desiring the services of the Guardia Nacional de Nicaragua shall be required to submit requests through the nearest official of that organization. The Guard of Honor for the Palace of the President shall be a company of selected men and officers from the personnel of the Guardia Nacional, and will wear distinctive insignia while employed on this service.

III

All matters of recruiting, appointment, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms, and equipment, quarters and administration, shall be under the jurisdiction of the Chief of the Guardia Nacional and always under the control and command of the President of the Republic.

IV

Rules and regulations for the administration and discipline of the Guardia Nacional de Nicaragua, prisons and penitentiaries, shall be proposed by the Chief of said Guardia and approved and issued by the President of the Republic. Infraction of these rules and regulations by members of the Guardia Nacional may be punished by arrest, imprisonment, suspension from duty without pay, fine, or dismissal, under regulations proposed, as above stated, by the Chief of the Guardia Nacional and approved and issued by the President of the Republic.

V

Infractions not included in the preceding article and which constitute civil crimes or offenses which are committed by members of the Guardia Nacional shall be investigated and tried by the judicial authorities of the country.

VI

Courts-martial constituted under the rules and regulations of the Chief of the Guardia Nacional may try native Nicaraguan officers and enlisted men of the Guardia for infraction of the rules and regulations. The findings of the courts-martial of the Guardia Nacional after approval of the Chief are final, and not subject to appeal or review except by the Supreme Court of Nicaragua and then, only in questions of excess of power or questions of jurisdiction.

VII

Persons violating the regulations or the laws governing traffic in arms, ammunition and military stores, shall be punished by

the civil authorities with fine, arrest or imprisonment, for which purpose the Government of Nicaragua will present to Congress a project of law to establish or amend the criminal laws in the sense indicated.

VIII

The Guardia Nacional de Nicaragua shall be under the control of the President of Nicaragua, who will himself, or through the proper channels, issue all orders pertaining to the Guardia Nacional to the Chief thereof. The other employees who may require protection or the services of the Guardia Nacional will make application to the senior officer of the Guardia Nacional in that locality.

IX

An adequate amount as provided in article I of this agreement shall be appropriated annually to defray the expenses for pay, allowances, equipment, uniforms, transportation, administration and other current expenses of the Guardia Nacional de Nicaragua. Allotments for the various needs of the Guardia Nacional shall be made from this sum by the Chief of the Guardia Nacional with the approval of the President of the Republic.

X

Reports of expenditures shall be made by the Chief of the Guardia Nacional as directed by the President of Nicaragua and audited in accordance with the law.

Savings effected under any title may be expended under any other title upon written approval of the Chief of the Guardia Nacional.

XI

The laws necessary to make effective the above provisions shall be submitted to the legislative body of Nicaragua.

XII

In consideration of the foregoing the Government of the United States in virtue of authority conferred on the President by the Act of Congress approved May 19, 1926, entitled "An Act to authorize the President to detail officers and enlisted men of the United States Army, Navy and Marine Corps to assist the Governments of the Latin-American Republics in military and naval matters" undertakes to detail officers and enlisted men of the United States Navy and Marine Corps to assist the Government of Nicaragua in the organizing and training of a constabulary as herein provided.

All American officers serving with the Guardia Nacional de Nicaragua must speak Spanish and shall be appointed from personnel of the United States Navy and Marine Corps by the President of Nicaragua upon nomination of the President of the United States. They will be replaced by Nicaraguans when the latter have successfully completed the course of instructions prescribed by the Chief of the Guardia Nacional [de Nicaragua] and have shown by their conduct and examination that they are fit for command.

Officers and enlisted men of the United States Navy and Marine Corps serving with the Guardia Nacional will not be tried by Nicaraguan civil courts or courts-martial but will be subject to trial by court-martial under the laws of the United States for the government of the Navy.

817.1051/280

The Secretary of State to the Chargé in Nicaragua (Hanna)

No. 519

WASHINGTON, May 29, 1929.

SIR: The Department has received and carefully considered the Legation's despatch No. 942 of March 30, 1929, as well as earlier despatches and telegrams regarding the amendments proposed by the Nicaraguan Government in the Agreement for the establishment of the Guardia Nacional.

This Government desires as far as possible to meet the wishes of General Moncada and the Congress of Nicaragua with respect to the Guardia Agreement, and has no desire to insist upon its own point of view with respect to unessential details. It has, however, found itself unable to accept certain of the changes proposed by the Congress of Nicaragua because it can not take the responsibility of lending officers of its armed forces for the organization of the Guardia unless it feels certain that the outcome will not reflect discredit on them and that they will never be placed by the operation of the Agreement in a situation inconsistent with their position as officers of the United States. This Government considers it especially necessary that the Agreement, while making the Guardia Nacional subject of course to the command of the President of Nicaragua, should give the Chief of the Guardia a sufficient measure of control over such matters as recruiting, internal organization and discipline to enable him to maintain the strict non-partisanship which under the terms of the Tipitapa Agreement must be its essential characteristic.

The amendments in which this Government has found itself unable to concur are the following:

Article I. The proposed changes in the penultimate paragraph if put into effect would apparently compel the immediate reduction of the

Guardia to a strength which has been shown by experience to be inadequate for the fulfillment of its mission. The Department would have no objection to a definite provision regarding the number of officers and men and the amount of money to be appropriated, with a further provision that increases must be approved by Congress, but if Article I is to be amended in this manner it must obviously authorize a sufficient force and a sufficient appropriation to cover the actual minimum needs of the Guardia at the present time. The best information now available would indicate that the Guardia under present conditions requires an annual appropriation of approximately \$1,000,000. This Government is gratified to know that this amount is now being made available. It would seem advisable that a further study of this matter should be made in the near future by the Nicaraguan Government, the American Legation and the Chief of the Guardia in order that both Governments may be more fully informed regarding the present needs of the organization, and in order that arrangements may be made to provide for its financial requirements in a satisfactory and permanent manner.

Article II. This Government cannot consent to a provision which might be interpreted to require subordinate officers of the Guardia to take orders from local Nicaraguan officials. Such an arrangement would prevent any unity of command or policy in the organization. Furthermore, because of the inevitable differences in points of view, it might lead at times to situations where local Guardia officers might be called upon to take action which they considered inconsistent with the nonpartisanship and exact justice which must characterize the conduct of the organization if American officers are to be connected with it. Friction and loss of efficiency would necessarily result. The Department feels that this difficulty can only be avoided and that the prestige of the Guardia as an organization can only be maintained if the force is subject solely to the direct command of the President of the Republic, acting in his own name or through the appropriate member of his cabinet.

Article III. The amendment of this article apparently contemplates an increased supervision by the President of the Republic over matters pertaining to the internal organization of the Guardia. While this Government of course desires that the policy pursued by the Chief of the Guardia in the direction of the organization should always be satisfactory to the President it does not feel that the aims of the organization can be best attained unless the Chief of the Guardia is given full authority and responsibility over matters such as recruiting, training and discipline. The non-partisanship of the new force cannot otherwise be maintained. The Department has no doubt that President Moncada would always uphold the Chief of the Guardia in maintaining the best standards in its internal organi-

zation, but it wishes to point out that a situation might easily arise at some time in the future and under another administration when it would be of the utmost importance for the Chief of the Guardia to have the necessary authority with respect to its internal administration to maintain it on the high plane contemplated by the Tipitapa Agreement. It is suggested, therefore, that the original wording of Article III be retained.

Article V. Nicaraguan members of the Guardia who commit ordinary offenses will of course be subject to prosecution in the local courts, and there will be no disposition on the part of their American officers to shield them or to hinder a thorough investigation of their actions. The efficiency and morale of the Guardia might, however, be gravely affected if the Nicaraguan members of the organization were exposed to prosecution by local judicial authorities for acts performed in the line of duty or in extreme cases to judicial persecution for political or personal reasons. The United States would not wish to conclude an agreement under which its officers might be placed in a position where their subordinates might be subjected to prosecution for acts committed in good faith under their orders. The Department feels that the original wording of Article V amply safeguards the rights of all concerned in this respect.

Article VIII. The proposed amendment to this article is unacceptable for the same reason as the proposed amendment to Article II.

Article XII. The amendment to this Article if interpreted to mean that all officers must speak Spanish at the time of their detail to the Guardia would be very difficult of enforcement. Every effort will be made to detail Spanish-speaking officers to the Guardia and to require those who do not already speak that language to learn it, but it would be inadvisable to restrict the selection of officers to the relatively small number of members of the navy and marine corps who now possess this qualification.

While a reconsideration by the Nicaraguan Congress of the proposed amendments would in the Department's opinion be the most satisfactory method of reaching an accord, the Department feels that many if not all of these objections to the amendments as outlined above might adequately be dealt with by an exchange of notes between the two Governments if President Moncada considers it preferable to arrive at the necessary understanding in this manner. You may discuss this suggestion with him, showing him the enclosed drafts of notes to be exchanged which embody the Department's views as to the points which should be covered.

It is noted that General Moncada has stated to the Minister in conversation that he is disposed to continue the operation of the Guardia under the present arrangement. While this Government considers

this arrangement highly unsatisfactory and would not desire to have the Guardia continue indefinitely to operate under Executive Decree, it is disposed, because of its deep interest in assisting President Moncada to maintain peace and order, to continue temporarily to cooperate with the Nicaraguan Government on this basis. It hopes, however, that President Moncada will confirm his statement to you in a formal request for the continuance of American officers in the Guardia as at present constituted.

Before communicating the above to President Moncada the Department desires that you should discuss the matter again with the Chief of the Guardia, showing him this instruction and inquiring whether he has any comments to express regarding the Department's views as herein set forth, and whether any of the other amendments proposed by the Nicaraguan Government are in his opinion sufficiently objectionable to require action by this Government. Unless, after consultation with General McDougal, you consider it advisable to make further recommendations to the Department, you may present to President Moncada the Department's views as set forth above.

I am [etc.]

HENRY L. STIMSON

[Enclosure 1]

Draft of a Note To Be Presented by the Nicaraguan Government

I have the honor to transmit herewith a certified copy of the Agreement for the creation and establishment of the National Guard embodying the amendments to this Agreement which were proposed by the Congress of Nicaragua and approved by the President of the Republic.⁵⁵ For the information of the Government of the United States in considering whether these proposed amendments are acceptable to it, I have the honor to explain further in this note the intent of the amended provisions and the procedure which will be followed in carrying them out.

My Government does not interpret the penultimate paragraph of Article I of the Agreement as prohibiting the Executive Power of Nicaragua from making such further provision for the needs of the Guardia as may be necessary, utilizing for this purpose funds taken from the surplus revenues or other sources. It is understood that the amount necessary for the efficient maintenance of the Guardia will be the subject of study by the two Governments, and that pending a further agreement between them regarding this amount the Nicaraguan Government will make available to the Chief of the Guardia for the use of that organization the sum of five hundred thousand cordobas during each period of six months.

⁵⁵ See translation, p. 625.

In accordance with the provisions of the Tipitapa Agreement the Guardia Nacional will be the sole military and police force of the Republic and consequently the Hacienda Guards will be disbanded in each Department as the Guardia forces become available.

Articles II and VIII of the Agreement have been amended to provide that the President may issue his orders to the Guardia through the proper channels (*organos correspondientes*). It is understood that this term refers to the Ministers of Gobernacion and Hacienda and that the Chief of the Guardia will not be required to give effect to any order not signed by those officials or by the President himself, and furthermore it is understood that all orders for the Guardia will be issued only through the Chief of the Guardia.

With regard to Article III it is understood that the words "control and command" refer to the general authority of the President of the Republic, who will issue orders in general terms as to the policy to be followed. The Chief of the Guardia, however, will have full authority and full responsibility with regard to the details of its internal administration, including matters relating to recruiting, appointment, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms and equipment, and quarters and administration.

In executing Article V the following procedure will be followed:

If a Nicaraguan member of the Guardia is charged with a common law offense the judicial authorities before whom the charge is made shall inform the Commanding Officer of the Guardia in that district. The latter, after investigating and ascertaining that there is evidence that an offense has been committed which is not within the competence of the Guardia tribunals established under Article VI, shall deliver the accused to the judicial authorities.

Article XII is not interpreted to mean that officers of the Guardia must speak Spanish at the time of their detail to that organization.

[Enclosure 2]

*Draft of a Note To Be Handed to the Nicaraguan Government by
the American Minister*

I have the honor to acknowledge the receipt of the note of
. with which Your Excellency transmitted a certified copy of the Agreement for the creation and establishment of the National Guard embodying the amendments to this Agreement which were proposed by the Congress of Nicaragua and approved by the President of the Republic.

I have informed my Government of the text of these amendments and of Your Excellency's explanation of their meaning and

the procedure to be followed in executing the provisions of the Agreement as amended. In this connection Your Excellency made the following statement:

"My Government does not interpret the penultimate paragraph of Article I of the Agreement as prohibiting the Executive Power of Nicaragua from making such further provision for the needs of the Guardia as may be necessary, utilizing for this purpose funds taken from the surplus revenues or other sources. It is understood that the amount necessary for the efficient maintenance of the Guardia will be the subject of study by the two Governments, and that pending a further agreement between them regarding this amount the Nicaraguan Government will make available to the Chief of the Guardia for the use of that organization the sum of five hundred thousand cordobas during each period of six months.

"In accordance with the provisions of the Tipitapa Agreement the Guardia Nacional will be the sole military and police force of the Republic and consequently the Hacienda Guards will be disbanded in each Department as the Guardia forces become available.

"Articles II and VIII of the Agreement have been amended to provide that the President may issue his orders to the Guardia through the proper channels (*organos correspondientes*). It is understood this term refers to the Ministers of Gobernacion and Hacienda and that the Chief of the Guardia will not be required to give effect to any order not signed by those officials or by the President himself, and furthermore it is understood that all orders for the Guardia will be issued only through the Chief of the Guardia.

"With regard to Article III it is understood that the words 'control and command' refer to the general authority of the President of the Republic, who will issue orders in general terms as to the policy to be followed. The Chief of the Guardia, however, will have full authority and full responsibility with regard to the details of its internal administration, including matters relating to recruiting, appointment, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms and equipment, and quarters and administration.

"In executing Article V the following procedure will be followed:

"If a Nicaraguan member of the Guardia is charged with a common law offense the judicial authorities before whom the charge is made shall inform the Commanding Officer of the Guardia in that district. The latter, after investigating and ascertaining that there is evidence that an offense has been committed which is not within the competence of the Guardia tribunals established under Article VI, shall deliver the accused to the judicial authorities.

"Article XII is not interpreted to mean that officers of the Guardia must speak Spanish at the time of their detail to that organization."

In view of the above statement I have the honor to inform you that my Government accepts the provisions of the Agreement as amended by the Nicaraguan Government upon the understanding that these amendments will be interpreted in accord with the understanding arrived at by this exchange of notes.

817.1051/280

The Secretary of State to the Chargé in Nicaragua (Hanna)

No. 521

WASHINGTON, June 6, 1929.

SIR: With reference to the Department's instruction No. 519, May 29, regarding the proposed amendments to the Agreement for the establishment of the Guardia Nacional, you are informed that the Department has given the most careful consideration to the question of the jurisdiction of the local courts over Nicaraguan members of the Guardia in cases of civil offenses. The Department desires that all members of the Guardia who commit such offenses should be brought to trial before the ordinary courts, and that there should be no effort whatever on the part of their American officers to shield them from the consequences of wrong-doing. As stated in the instruction above referred to, however, it has felt that the purposes of the Guardia Agreement might be defeated if there were no check whatever upon the action of the courts in cases where suits were brought for the obvious purpose of political or personal persecution, and where the attitude of the local judge was such as to preclude the probability of a fair trial.

The provisions of Article V of the Agreement, if they are accepted by the Nicaraguan Government in the form proposed by the Department, will impose a very heavy responsibility upon the American officers of the Guardia, because it would be extremely unfortunate to create an impression that members of this force enjoy any immunity from the consequences of misconduct. The Department desires, therefore, that each case arising under Article V should be dealt with with the utmost care, and that the Department should be informed in each case of all of the circumstances and of the action taken. It is suggested that it would be desirable for the Chief of the Guardia to reserve to himself the authority to refuse to permit the local courts to assume jurisdiction over a member of the Guardia who is accused of an offense, and that he should furnish to the Legation full information regarding each case where such refusal is considered necessary, and a brief statement regarding each case where a member of the Guardia is tried by the local courts. It is assumed that he will consult with the Legation in cases which appear likely to give rise to difficulties with other branches of the Nicaraguan Government. The Department does not desire, however, that the Legation should assume the responsibility of deciding questions of this nature.

It is further desired that the Legation should transmit to the Department by mail, or in specially important cases by telegraph, all information which it receives regarding such cases, in order that the Department may be fully apprised of the circumstances if there should

be complaints from the Nicaraguan Legation at Washington or criticism in the United States.

I am [etc.]

HENRY L. STIMSON

817.1051/304

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1066

MANAGUA, July 2, 1929.

[Received July 8.]

SIR: With reference to the Department's instruction No. 519 of May 29, 1929, (received here June 29, 1929) in regard to the amendments proposed by the Nicaraguan Government in the Agreement for the establishment of the Guardia Nacional, I have the honor to submit for the Department's consideration the following developments in this matter which seemingly were unknown to the Department when the instruction was drafted:

The instruction states near the bottom of page 2 in connection with a discussion of the strength and cost of the Guardia that "it would seem advisable that a further study of this matter should be made in the near future by the Nicaraguan Government, the American Legation and the Chief of the Guardia, in order that both Governments may be more fully informed regarding the present needs of the organization, and in order that arrangements may be made to provide for its financial requirements in a satisfactory and permanent manner", and a reference to the study thus proposed is made in the drafts of the notes to be exchanged by the Legation and the Nicaraguan Government, copies of which were transmitted with the instruction. A study of the nature indicated was nearing completion when the instruction was received by the Legation.

The circumstances which gave rise to the study were as follows; the cost of the Guardia has been for some time a subject for criticism by the press of Managua directed against President Moncada and indirectly involving the marines as well as the Government of the United States. More recently the criticism took on added violence when it became known that General McDougal had asked for and the President had authorized an allotment of $\text{C}1,000,000$. (one cordoba equals one dollar) for this purpose annually, previous allotments having been made on a basis of $\text{C}760,000$. annually. The criticism became still more serious shortly thereafter when General McDougal requested that $\text{C}650,000$. of the surplus on July 1, 1929, be set aside for the Guardia. Additional detail in this connection was reported in the Legation's despatches 1056 and 1057 of June 25, 1929.⁵⁶

This criticism, made by the press of Managua irrespective of party affiliation with one exception, greatly disturbed President Moncada.

⁵⁶ Neither printed.

He had touched upon the subject on a number of occasions when I was conferring with him on other matters, and on June 24, when the latest attacks became most virulent, he asked me if I would be willing to assist him by making a thorough investigation of the whole subject of the expenses of the Guardia. His request took the form of a strong appeal for my personal as well as official cooperation. He asserted his determination to defend the Guardia against every unjust attack and to maintain it at a strength commensurate with its duties and added that he would do this even though there was no Guardia Agreement and solely because he thinks it absolutely essential. He said that he could not disregard, however, the storm of criticism and protests and that it was essential for all concerned that the strength and cost of the Guardia should not exceed the absolute necessities of the situation.

I immediately conferred with General McDougal and, as was to be expected, I found him no less desirous than myself of cooperating with President Moncada in the study which he wished to have made. General McDougal lost no time in making a thorough study of the question in all its phases, and our conclusions in the matter were embraced in the seven points mentioned on the enclosed memorandum. It will be noted that the enlisted strength of the Guardia is not to exceed 2,000 men. This number is actually the present enlisted strength of the Guardia although that fact is not stated in the memorandum. An effort is also to be made to make a further reduction of 200 in the enlisted strength but this may be stopped at any moment by the Chief of the Guardia if it becomes apparent that such further reduction is inadvisable.

It will also be noted that by points five and six President Moncada agrees to the disbandment of the Hacienda Guards and the Voluntarios. On more than one occasion recently I have taken advantage of opportunities to remind President Moncada of the undesirability of these two organizations and he had told me that he desired to get rid of them. In the last days of June he gave the Minister of Hacienda an Executive Order to disband the Guards beginning on July 1. I also told President Moncada, in the course of the study that General McDougal and I made of this matter, that the disbandment of the Voluntarios would be an essential point in any conclusions that we would reach.

Under point three of the memorandum the total strength of the Guardia may be restored to what it now is or even to a greater strength if changing conditions should make such an increase necessary.

Finally, point seven of the memorandum is intended to meet the keen desire of the Nicaraguan authorities that the Guardia should

make more effective use of the Jueces de Mesta, a desire in which General McDougal has concurred provided a way could be found to place the Jueces de Mesta more directly under the control of the Guardia. President Moncada has stated that he believes this can be done.

There will be an immediate saving to the Nicaraguan Government of ¢100,000. annually on the cost of the Guardia, and an additional annual saving of approximately ¢400 per man for such reduction in the enlisted strength as may be made under point 2 of the memorandum. There will be a further saving of about ¢30,000. annually with the disbandment of the Voluntarios and of probably ¢50,000. annually by the disbandment of the Hacienda Guards. The total saving for the Government should be at least ¢200,000. and may reach ¢250,000. A further advantage of considerable immediate importance to President Moncada is that General McDougal will now require ¢550,000. from the surplus available on July 1 instead of ¢650,000. which he recently requested, thus setting free an additional ¢100,000. of the surplus for other purposes.

I called upon President Moncada today accompanied by General McDougal and gave him a copy of the enclosed memorandum as expressing the result of our study. He agreed to all of its provisions without hesitation or reservation and expressed his appreciation and gratitude for the cooperation we had given him. I directed his special attention to points five and six and he stated in reply that the Hacienda Guards have just been disbanded by Executive Decree and that the Voluntarios will also be disbanded without delay. He said that he desires the Guardia to take over the major part of the duties of the Hacienda Guards but that a small force of special agents in the nature of detectives, plain clothes men without military organization, will also be employed. I also understand that the President's only serious problem in connection with the disbandment of the Voluntarios is to find some position, temporarily at least, for General Escamilla.

In view of the developments set forth above, it would appear that an appropriate change should be made in the second paragraph of the draft note to be presented by the Nicaraguan Government. For the same reason the Department may desire also to make an appropriate change in the third paragraph of the note which refers to the Hacienda Guards.

General McDougal suggests with respect to paragraph four of the draft note concerning Articles II and VIII of the amended Agreement that its last sentence be so modified as to convey the following meaning:

It is understood that this term refers to the Ministers of Gobernacion and Hacienda but that all orders issued by or through them shall have their signatures as well as the signature of the President himself,

and furthermore it is understood that all orders for the Guardia will be issued only through the Chief of the Guardia.

General McDougal fears that the Ministers mentioned may issue orders to him on their own initiative and responsibility without consulting President Moncada, and his suggestion is for the purpose of preventing this if possible.

With respect to the penultimate paragraph of the draft note regarding the execution of Article V of the Agreement I am in some doubt whether the term "Common law offenses" is an entirely accurate description in Nicaragua of offenses in mind.

I will await the Department's further instruction before taking up this matter with President Moncada.

I have [etc.]

MATTHEW E. HANNA

[Enclosure]

MEMORANDUM

1. The Guardia will be maintained at an enlisted strength of 2,000 men at an annual cost that will not exceed 900,000 cordobas.

2. An effort will be made to make a further reduction of 200 in the enlisted strength and a corresponding reduction in the cost, on the following basis and understanding:

(a) The reduction to be made by natural losses, except that men whose enlistments expire and who are desirable will be reenlisted.

(b) This additional reduction may be stopped at any moment if it becomes apparent to the Chief of the Guardia that the Guardia is being reduced below the absolutely necessary minimum for the performance of the duties imposed upon it, and the total enlisted strength of the Guardia may, if necessary for the performance of those duties, again be increased to a total of 2,000 enlisted.

3. The total enlisted strength of the Guardia and its cost may be increased or decreased in the future to meet changing conditions, and Paragraphs 1 and 2 above are subject to this condition.

4. The commissioned strength of the Guardia will be kept at a minimum for efficient administration and operation at all times.

5. The Hacienda Guards will be disbanded in accordance with Executive orders already issued and their duties will be taken over as necessary by the Guardia.

6. The existing force of Voluntarios will be disbanded and replaced by the Guardia.

7. A study will be made to bring about effective cooperation of the Jueces de Mesta with the Guardia Nacional.

JULY 1, 1929.

817.1051/309

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1069

MANAGUA, July 9, 1929.

[Received July 15.]

SIR: I have the honor to transmit herewith a copy of the Articles for the Government of the Guardia Nacional of Nicaragua prepared by General McDougal and approved by President Moncada on July 5, 1929.⁵⁷

Article I provides that the personnel of the Guardia will be subject for all military offenses and for acts committed in the line of duty to the jurisdiction of military tribunals, and that the findings of such tribunals are not subject to appeal or review except by the Supreme Court of Nicaragua and then only on questions of excess power or questions of jurisdiction. The Article further provides that:

Other offenses committed by members of the Guardia Nacional de Nicaragua shall be investigated by officers of the Guardia Nacional as directed by the Chief of the Guardia Nacional. If it should appear upon investigation that the offense is not subject to military jurisdiction, the offender will be turned over to the civil authorities.

The foregoing provisions of the Articles have a bearing upon the matters discussed in the Department's instructions No. 519 of May 29, 1929, and No. 521 of June 6, 1929, concerning the amendments proposed by the Nicaraguan Government in the Agreement for the establishment of the Guardia Nacional, especially upon Paragraph 6 of the draft note to be presented by the Nicaraguan Government to this Legation which was enclosed with instruction No. 519 just mentioned.

I have [etc.]

MATTHEW E. HANNA

[In a letter dated December 5, 1929, to Allen Dulles, in care of Sullivan and Cromwell, New York, Francis White, Assistant Secretary of State, wrote as follows with respect to the agreement as passed in amended form by the Nicaraguan Congress on February 21, 1929:

"The Department has not yet acquiesced in the amendments to this joint agreement, but has in mind certain modifications designed principally to insure that regular budgetary provision will be made for the upkeep of the Guardia, and to adjust the agreement in other ways to meet certain technical requirements." (817.1051/339a)]

⁵⁷ Not printed.

**OBJECTIONS TO NICARAGUAN LAW GRANTING COURTESY RANK OF
MINISTER TO CERTAIN OFFICERS OF THE UNITED STATES NAVY
AND MARINE CORPS**

817.452/1 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 7, 1928 [1929]—3 p. m.

[Received 8:30 p. m.]

13. The President has signed an act passed by Congress⁵⁸ giving Admiral Sellers and General Feland⁵⁹ the precedence accorded to ministers plenipotentiary on special mission at all official functions. The law is the result of several recent painful incidents caused by General Feland's insistence that he be placed ahead of the British, the Italian and other charge des affaires at official functions. It has naturally aroused resentment among the members of the Diplomatic Corps.

Before the law was passed the Legation pointed out to General Feland and to Admiral Sellers the unfortunate complications which would result and the wrong impression which might be created among the representatives of other Latin American Republics by giving such unusual treatment to American military officials and suggested that it would be appropriate for General Feland himself to suggest that the project be dropped. They did not however concur in my views.

A representative of the Foreign Office informed the Legation today that the Government interpreted the law as requiring that General Feland be seated ahead of the dean of the Diplomatic Corps and myself at an official banquet to be given tonight in honor of the special delegations here for the inauguration. He was informed that would be entirely improper and it was decided that the General should be seated after the ministers but before the charge des affaires. I understand however that the General will not be able to attend.

I am reporting this matter because I fear that one of the other governments represented here will make a formal protest and that the resulting publicity will be unfortunate. We have endeavored on such occasions as Mr. Hoover's visit and the inauguration to avoid any display which might give an impression of American military domination here and I feel that it would be very unfortunate to have attention focused on the position of the chief of

⁵⁸ The law went into effect January 4, 1929. (817.452/7)

⁵⁹ Rear Admiral David Foote Sellers, U. S. N., Commander of the Special Service Squadron; Brigadier General Logan Feland, U. S. M. C., Commander of the Second Brigade in Nicaragua.

the American military forces by a controversy over questions of precedence.

EBERHARDT

817.452/2 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 9, 1929—1 p. m.

[Received 3:25 p. m.]

16. The Diplomatic Corps held a meeting yesterday to discuss the law referred to in my telegram No. 13, January 7, 3 p. m. I did not attend. They decided not to make any protest at present but simply to transmit direct to their Governments the Foreign Office's note advising them of the text of the law.

EBERHARDT

817.452/3 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, January 10, 1929—2 p. m.

7. Your thirteen January 7, 3 P. M. and 16 January 9, 1 P. M. The Department regrets that such a law should have been passed and wishes you to make it plain to all concerned that this was not done at the instigation of the Department or with its approval. The Department sees no reason why American military or naval officers should take precedence over chiefs of mission either ministers or chargés d'affaires (the Department presumes that your telegram referred to the British and Italian and other chargés d'affaires and not charge des affaires as transmitted). The Department notes that you have endeavored on such occasions as Mr. Hoover's visit and the inauguration to avoid any display which might give an impression of American military domination and feels very strongly that this same policy should be followed at all times.

KELLOGG

817.452/5 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 25, 1929—4 p. m.

[Received 9:16 p. m.]

30. Department's 11, January 25, 3 p. m.⁶⁰ Full text of the law of January 4th as follows:

"Article 1. That the admiral commanding the squadron of the United States Navy on vigilance service in the waters of Nicaragua and the high officials with grade of general in the American armed forces who are in command of the American mission of pacification,

⁶⁰ Not printed; it requested the Minister to cable full text of law.

will be accorded, for the purposes of protocol and courtesy, the rank of ministers plenipotentiary and envoys extraordinary of the United States on special mission near the Government of the Republic of Nicaragua.

Article 2. This decree will come into force from its publication by *bando*.”*

EBERHARDT

817.452/9 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, February 2, 1929—7 p. m.

22. (1) I have been advised by the Secretary of the Navy that both Feland and Beadle are being relieved from duty in Nicaragua. I understand that Williams will replace General Feland and Colonel McDougal will replace Beadle. Beadle will not remain in Nicaragua.

(2) The Navy Department has detailed an officer of the Marine Corps to make an audit of the accounts of the Guardia Nacional.

(3) Referring to your 13, January 7, 3 p. m. I have discussed the law of January 4 with the Secretary of the Navy and he agrees with me that it is unfortunate that such a law should have been passed, giving special precedence in Nicaragua to specified American officers. I am doing nothing further about the matter at the present time as the Navy Department wishes to work it out itself in order not to cause embarrassment. The same applies to having an American officer as adviser in military and other matters. It is to be arranged in the future that this should be the Chief of the Guardia Nacional and not the Commander of the United States Marine forces in Nicaragua. The Navy Department will likewise make it clear to the new appointees that the American Minister in Nicaragua and, in his absence the Chargé d’Affaires, is the only personal representative of the President of the United States in Nicaragua, and that the officers of the American armed forces in Nicaragua should not advise the President of Nicaragua or other Nicaraguan officials independently. Whenever the officers of the American armed forces desire to discuss matters with the President or a Minister of the Cabinet, the Navy Department will arrange that they should request the American Minister or Chargé d’Affaires to request the interview and take them to it, and that matters in which they may disagree with the Chief of Mission shall not be taken up with the Government of Nicaragua without first being submitted to the Government of the United States for its decision.

KELLOGG

* i. e. by oral proclamation. [Notation on original in ink in the handwriting of Assistant Secretary of State Francis White.]

817.452/15 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 24, 1929—5 p. m.

59. Department's 22, February 2, 7 p. m. Before leaving Managua the Department desires you to inform the Government that in your absence the Chargé d'Affaires, as the representative of the United States, will take precedence over both the Commander of the Special Service Squadron and the Brigade Commander. The Navy Department has directed the Commander of the Special Service Squadron to be guided accordingly.

STIMSON

817.452/16 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 29, 1929—5 p. m.

[Received 7:55 p. m.]

124. The information contained in Department's 59, April 24, 5 p. m., will be conveyed to the Nicaraguan Government before my departure. Precedence of the Chargé d'Affaires of this Legation over the Admiral and Commanding General will also give him precedence over foreign chargé[s] d'affaires if these latter take precedence after the Admiral and General as contemplated in the recently enacted Nicaraguan law and this is liable to result in disagreeable incidents. It would prove very helpful if the Department could induce the Navy Department to instruct the Admiral and Commanding General to express the Navy Department's appreciation of the Nicaraguan Government's act and its regret that the honor cannot be accepted since it is in conflict with diplomatic usage and custom. If this procedure is not practicable this Legation would be glad to inform the Nicaraguan Government that the American Government would be gratified to see the law repealed. Please expedite reply.

EBERHARDT

817.452/19 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, May 1, 1929—4 p. m.

61. Legation's 124, April 29, 5 p. m. The American Chargé d'Affaires ad interim will take precedence with respect to his colleagues in accordance with universal practice and the local protocol. The American military representatives will take precedence after the American Chargé d'Affaires ad interim. If this understanding is not shared by the American military representatives, please report.

STIMSON

817.452/21

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 982

MANAGUA, May 7, 1929.

[Received May 24.]

SIR: With reference to the Department's confidential telegrams No. 59 of April 24 (5 p. m.) and No. 61 of May 1 (4 p. m.), regarding the precedence of the Chargé d'Affaires of this Legation with respect to the Commander of the Special Service Squadron and the Brigade Commander, I have the honor to report that I have informed the Nicaraguan Government as desired by the Department and have also brought the telegrams to the attention of General Williams, the Brigade Commander.

General Williams, I am pleased to inform the Department, is in full accord with the Department's views in the matter. He showed me an order of the Navy Department directing him to be guided by the views of the Department of State as set forth in a letter of Secretary of State to the Secretary of the Navy, a copy of which accompanied the order. The pertinent paragraph of that letter stated in substance that the Secretary of State had noted the opinion of the Secretary of the Navy to the effect that the special rank conferred upon the Commander of the Special Service Squadron and the Brigade Commander by the Nicaraguan Congress applied only to the officers who occupied those respective positions at the time the legislation was enacted and did not apply to their successors. General Williams stated to me that that was also his understanding of the matter, and he requested me so to inform President Moncada and to say that he, General Williams, felt that, in view of all the circumstances, he could not accept the honor conferred by the legislation in question.

When I saw General Moncada today he brought up this subject and said that he had considered asking Congress to repeal the legislation but had decided that it would be preferable to allow the legislation to stand but to disregard it entirely in practice.

I have [etc.]

CHARLES C. EBERHARDT

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF
ELECTIONS IN NICARAGUA ⁶¹

817.00/6218

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 914

MANAGUA, February 13, 1929.

[Received February 23.]

SIR: With reference to my telegram No. 8 of January 4th (4 p. m.),⁶² I have the honor to transmit herewith a copy and an English transla-

⁶¹ Continued from *Foreign Relations*, 1928, vol. III, pp. 418-522.

⁶² Not printed.

tion of a note from the Acting Minister of Foreign Affairs in which he states that the President of Nicaragua, being desirous of laying the foundation for lasting peace in the Republic by the practice of free institutions and as the first step in a general plan aiming at the attainment of truly free elections in the future, requests that the President of the United States designate an American citizen to be appointed by the Supreme Court of Nicaragua as President of the National Board of Elections.

I have been informed by the President that, the Presidential elections of November 1928 having been completed in accordance with the Executive Decree of March 21, 1928, and General McCoy having resigned as President of the National Board of Elections, the Dodds Electoral Law of 1923 has again come into effect.

I have [etc.]

CHARLES C. EBERHARDT

[Enclosure—Translation]

The Nicaraguan Acting Minister for Foreign Affairs (Cordero Reyes) to the American Minister (Eberhardt)

No. 64

MANAGUA, February 12, 1929.

EXCELLENCY: Under special instructions from His Excellency the President I have pleasure in informing Your Excellency that my Government being desirous of laying the foundation for peace in the Republic in a firm and stable manner, by the practice of free institutions, has arrived at an agreement with the Honorable Supreme Court of Justice, by which this High Tribunal, in the exercise of the powers which are conferred on it by the Electoral Law of March 20, 1923, will appoint a citizen of the United States of America, previously designated by His Excellency the President of the United States, as President of the National Board of Elections, in order to assure complete impartiality of this official, and as the primary part of a general plan aiming at the attainment of truly free elections in the future.

The President desires to obtain in a permanent way the valuable cooperation of the United States in the stability of the Republic in Nicaragua; and to this end, I venture to request that Your Excellency be so kind as to bring to the knowledge of the enlightened Government at Washington the aims above mentioned and to opportunely urge the designation of the American citizen to preside over the National Board of Elections.

I am also authorized to advise Your Excellency that the Government of the Republic will pay to the said President a salary of eight thousand dollars a year.

With confidence that Your Excellency's enlightened Government will agree to continue lending us its assistance for such noble ends, I am pleased to convey to Your Excellency in advance the deep appreciation of my Government.

I avail myself [etc.]

M. CORDERO REYES

817.00/6245

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 937

MANAGUA, March 16, 1929.

[Received March 27.]

SIR: I have the honor to transmit herewith a copy and an English translation of a law passed at the present session of Congress⁶³ which took effect on March 15, 1929, and which governs the holding of elections for municipal authorities in Nicaragua.

Under the Organic Law of Municipalities of 1901, the Municipal Mayors and Sindicos held office for a period of one year, but this term has been extended to two years by the above-mentioned law, and the City Councilors will now be elected in their entirety at the same election as the Mayors and Sindicos for a period of two years.

As the Department was informed in my despatch No. 914 of February 13, 1929, the Dodds Electoral Law of 1923 was considered to have been temporarily suspended by the Executive Decree of March 21, 1928⁶⁴ which provided for American supervision of the national elections, and to have again come into effect upon the resignation of General McCoy as President of the National Board of Elections on December 15, 1928. Consequently, the election of municipal authorities which would have normally been held on November 4, 1928, did not take place, and the incumbents have remained in office pending the enactment of appropriate legislation to regularize the situation. This extended tenure of office of the present city officials has been legalized by the above-mentioned law, and the elections of municipal authorities will be held on the first Sunday of November 1929 and every two years thereafter.

I have [etc.]

CHARLES C. EBERHARDT

817.00/6218 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, May 13, 1929—6 p. m.

71. Your despatch No. 914 of February 13. Before reaching a definite decision regarding the designation of an American citizen to act as President of the National Board of Elections, I should like to have more complete information regarding the facilities which would be accorded to this official in performing his duties. It would be desirable, in order to assure full impartiality in the conduct of the elections, to have Americans also as Chairmen of the Departmental Electoral Boards, and it is believed that each of these Americans, to assure efficient administration, would require two American

⁶³ Not printed.⁶⁴ See telegram No. 148, March 24, 1928, from the Minister in Nicaragua, *Foreign Relations*, 1928, vol. III, p. 482.

assistants. With the necessary office force in the Central Board a total force of approximately forty-five Americans would be needed. The expense of an election conducted with such an organization would of course be materially less than the expense of the 1928 election, when a very much more elaborate organization was required.

If an American nominated by this Government is to assume responsibility in connection with the elections it would be necessary that the existing law should be so amended as to give the Departmental and National Boards the same authority to regulate the electoral machinery and to decide electoral appeals and contests and other disputes which the electoral boards enjoyed in 1928; and also so as to give the Chairman of the National Board authority to call upon the Chief of the National Guard for assistance in electoral matters if he should find it necessary to do so.

I do not think that it would be either necessary or desirable for the American officials to reside permanently in Managua, as their services would be needed only for a few months before and immediately after each biennial election. It would obviously be more economical for the Nicaraguan Government not to employ them on a full time basis.

If President Moncada concurs in the views above set forth you will be authorized to discuss in more detail with the President the necessary changes in the electoral law. Further instructions will be sent to you for this purpose.

STIMSON

817.00/6313 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, May 16, 1929—11 a. m.

[Received 2:35 p. m.]

138. President Moncada concurs in the views set forth in the Department's 71, May 13, 6 p. m., and is ready to discuss the necessary changes in the electoral law. He said the president of the National Board of Elections should reside permanently in Managua and would like him designated in ample time to assist in the municipal elections in November of this year.

The President said he is convinced that American supervision of elections in Nicaragua will be essential for many years. He desires therefore to establish the supervision on an enduring basis and is considering the advisability of making changes in the Constitution to insure greater certainty in this respect, although he believes the situation at present can be adequately met with changes in the electoral law. He said the Constitution does not preclude the appointment of foreigners as presidents of electoral boards but that it might be desirable to

make specific provision in the Constitution for such appointments. He assured me that the Supreme Court will appoint the president of the National Board as soon as his name is submitted.

HANNA

817.00/6355: Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 28, 1929—5 p. m.

[Received 8 p. m.]

177. My 138, May 16, 11 a. m. The Minister for Foreign Affairs says that President Moncada intends to constitute the National Board of Elections which is to supervise the municipal elections on the first Sunday in November, the additional registrations for which should be made in the beginning of September. The President will appoint a Nicaraguan as temporary president of the board with the understanding that he will vacate the position if the Department desires to name an American as president of the board.⁶⁵ The supervision will be in accordance with the Dodd law.

The Minister for Foreign Affairs, who is one member of the present board, thinks that effective American supervision cannot be had under the Dodd law and that American supervision is not desirable unless it is effective. I concur in this opinion. He says this situation will be adequately corrected at the next session of the Nicaraguan Congress. President Moncada would prefer permanent supervision but if the Department deems supervision impracticable for municipal elections he wishes it in any event for congressional and presidential elections.

HANNA

817.00/6356: Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 29, 1929—10 a. m.

[Received 12:30 p. m.]

178. My telegram number 177 June 28, 5 p. m. The Supreme Court by decree dated yesterday accepted the resignation of General McCoy as president of the National Board of Elections and appointed Doctor Albino Roman y Reyes as his successor.⁶⁶

HANNA

⁶⁵ A memorandum dated July 27, 1929, prepared for Assistant Secretary of State White by the Chief of the Division of Latin American Affairs states: "It was the Department's hope that Doctor H. W. Dodds, the author of the 1923 Law, would be willing to accept appointment as Chairman of the National Board of Elections and to undertake the redrafting which his original law now appears to require. Unfortunately, however, Doctor Dodds does not feel that he can again interrupt his duties at Princeton." (817.000/6383½)

⁶⁶ In telegram No. 39, May 8, 1930, 7 p. m., the Secretary of State instructed the Minister in Nicaragua to inform President Moncada that the President had designated Captain Alfred Wilkinson Johnson, U. S. N., for appointment as chairman of the Board of Elections of Nicaragua, and that the Department was considering the necessary changes in the 1923 electoral laws (817.00/6218).

ASSISTANCE BY THE DEPARTMENT OF STATE IN REORGANIZING
THE FINANCES OF NICARAGUA ⁸⁷

817.516/168a : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

[Paraphrase]

WASHINGTON, July 27, 1929—2 p. m.

111. The Department has learned that the President of Nicaragua is insisting that the National Bank loan \$50,000 to . . . The National Bank feels that this is very unsound business as . . . has not the resources to justify such a loan which the manager of the bank ⁸⁸ feels confident will be defaulted. The manager states he fears the President of Nicaragua will insist upon the matter being presented to the advisory board of the National Bank. The manager states that under the by-laws the advisory board passes on loans recommended by the manager and as he will not recommend this loan it should not come before the advisory board. However, the President of Nicaragua may insist and the board will approve. It will then have to be submitted to the board of directors in New York which he feels confident will support the manager and refuse the loan. This may cause the advisory board to resign or it may cause the President of Nicaragua to change the directors, in which case there would be a change of management also.

If the policy is pursued of overruling the manager of the National Bank in matters of this sort of purely business judgment and good business management, the National Bank may well be bankrupted and the stability of the currency affected causing a serious situation.

Discreetly investigate this matter; and, should you find the facts to be as stated, please call on the President of Nicaragua and discuss the matter informally with him in a most friendly manner pointing out the folly and danger of administering the National Bank on any but sound business principles and of interfering with the technical staff of the bank in such matters. It is my sincere hope that the President of Nicaragua will concur with my views in this matter, in which case he might care to withdraw the request for the loan in question, or at least authorize you to inform the Department of State for the information of the bankers that he does not expect a reply to his recent telegram insisting upon a loan. You may state that the Secretary of State has personally discussed and carefully considered the matter and that he is much troubled over the consequences, which he fears would follow, to the financial stability of Nicaragua if the policy should be adopted of interference by public officers with the purely business operations of the National Bank.

STIMSON

⁸⁷ For previous correspondence, see *Foreign Relations*, 1928, vol. III, pp. 523 ff.

⁸⁸ L. S. Rosenthal.

817.516/169: Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

[Paraphrase]

MANAGUA, July 29, 1929—5 p. m.

[Received 7:15 p. m.]

206. Your July 27, 2 p. m. I saw the President of Nicaragua. He states that it has never been his intention to do more than indicate his desire that the loan in question be made provided it could be made on sound business principles. The President is not aware of a telegram from him insisting upon the loan if it is unsound business. My talk with the President leaves the matter to the judgment of those administering the National Bank.

HANNA

817.516/171: Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, August 26, 1929—3 p. m.

[Received 9:55 p. m.]

217. My telegram 206, July 29, 5 p. m. At the regular meeting of the advisory board of the bank on August 14, President Moncada, after expressing the opinion that the refusal of the board of directors to grant the loan to . . . is unjust, announced that the advisory board in its monthly meetings merely receives the report and reads the written minutes of the transactions without having voice or vote in the decisions of the bank and that for this reason he will refrain from attending the sessions and will delegate his powers to the Minister of Hacienda. He then requested that his statement be recorded in the minutes and that a certified copy be furnished him to forward to the Department of State.

After the board had adjourned he made a statement about as follows to its members:

“I have no objections in stating to you that I am opposing no one; there are few persons in Nicaragua who desire American co-operation as much as I; I do not wish to sacrifice the bank; I propose that it be administered by an American company but, as President of the Republic, I wish the bank to help Nicaraguans and if the President of the Republic who knows Nicaraguans, their reputation and necessities, can do nothing to help Nicaraguans, the real owners of the bank, there is no purpose in his losing time by attending these meetings.”

The *Diario Moderno* yesterday featured an attack on the bank management, intimating that Rosenthal has mismanaged its affairs and that the Department of State is of that opinion. This paper is very close to President Moncada.

Detailed report will be forwarded by air mail August 28.

HANNA

817.516/171 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, September 3, 1929—6 p. m.

123. Your 217, August 26, 3 p. m. The Guaranty Trust Company and Seligman and Company inform the Department that they feel that they will have to withdraw their representatives from the directorate of the National Bank because of President Moncada's attitude, and particularly because of his withdrawal from membership in the Advisory Board and the statement which he made in withdrawing. They state that the bankers have no interest in the National Bank sufficient to lead them to continue their connection therewith at the risk of a controversy with the Nicaraguan Government which would react unfavorably on the large interests of both institutions in other Latin American countries.

The Department is interested in this situation only because it feels that the economic welfare of Nicaragua and the stability of her finances are dependent upon the efficient management of the National Bank. It has no interest in seeing this management remain in the hands of any particular group, but it feels that the withdrawal of the present management because of differences of opinion regarding the soundness of particular loans or banking policies would make it extremely difficult for the Government of Nicaragua to find another equally strong and reputable group which would be willing to take over the management. The danger of placing the bank in the hands of less experienced and reliable directors is too evident to require discussion. A false step of this sort might do irreparable injury to Nicaragua's credit and financial stability in a very short time.

I should like to have you bring my views as expressed above to President Moncada's attention in a most informal and friendly manner, telling him that I personally am so deeply interested in the welfare of Nicaragua and the success of his administration that I cannot refrain from pointing out the possible danger which might result from any ill-considered step in connection with the National Bank, which is the keystone of Nicaragua's whole financial structure. I am also informing the bankers that the Department would very much regret the withdrawal of the present group from the management of the bank.

Tell the President that I am sending him a personal letter dealing with this subject.⁶⁸

STIMSON

⁶⁸ Not printed.

817.516/173 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, September 5, 1929—4 p. m.

[Received 9:23 p. m.]

222. Department's telegram 123, September 3, 6 p. m. I have brought your views to President Moncada's attention. He expressed appreciation of your interest and wished me to assure you that he is in complete accord with you in the matter. He said he withdrew from the advisory board because he thinks that in view of the limited authority of the board it is not appropriate or desirable for the President of Nicaragua to have membership in it. He said the refusal to grant the . . . loans was not the reason for his withdrawal, but he added that his opinion concerning the soundness of that loan has been confirmed by the action of a local bank in granting the loan on less security than was offered the National Bank.

He insists that he wants the bank under American management and says he hopes the present banking group will continue its management. By way of emphasizing this he told me he had given Rosenthal full power to negotiate a loan of \$3,000,000 with the existing management and that his wishes in this connection have not changed. He insists, however, that the Government of Nicaragua should have more influence in shaping the policy of the bank and said, by way of illustration, that there are serious objections to the bank engaging in the purchase and sale of coffee and that he desires to present this matter for consideration.

The President thinks the situation is largely the result of misunderstandings and that they would disappear and a satisfactory arrangement be reached if the subject were submitted to a representative of this Government, a representative of the bankers and a representative of the Department for adjustment, and he requested me to submit this proposal for your consideration. He mentioned Doctor Sacasa as his representative in such a conference but told me in the course of our conversation that neither Doctor Sacasa nor Carazo Morales is favorably disposed toward the present banking group.

HANNA

817.516/181 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, September 20, 1929—2 p. m.

[Received 8:05 p. m.]

228. My 225, September 17, 3 p. m.⁷⁰ Tomas Soley Guell has been appointed representative of this Government for the proposed con-

⁷⁰ Not printed.

ference. He is a Costa Rican reputed to be an expert in financial matters and to have been instrumental in stabilizing the currency of Costa Rica. He organized the Mortgage Bank of Costa Rica and has just completed a plan for organizing a similar bank in Guatemala. He will be fully instructed and will have full powers. He will be joined in Costa Rica by Emilio Pereira, a high official of the Department of Hacienda, who will accompany him to the United States on an early boat from Port Limon.

President Moncada has just told me that in appointing an expert to this commission he hopes to present the Nicaraguan case with completeness and clarity and take advantage of this opportunity to terminate this controversy in a complete and satisfactory manner. He said he does not want to interfere in questions of loans but that he wishes to establish definitely the prerogative of the Nicaraguan Government. He said there should be an auditor to keep this Government informed and that he wants the bank to engage in no business activities other than those of a bank of loans and [omission?].

HANNA

817.516/187

The Secretary of State to Mr. Earl Bailie of J. & W. Seligman & Co.

WASHINGTON, September 30, 1929.

MY DEAR MR. BAILIE: Mr. White has reported to me today the conversation which you had with him over the telephone on September twenty-sixth. I write to say that after fully considering the matter with Mr. White I do not wish to urge you to withhold your resignation and that of Mr. Loree as directors of the Bank of Nicaragua.

I regret that you should have felt harassed by the request of the President of Nicaragua for an investigation into the affairs of the bank with a view to its future conduct, but since you do, I can not give you any assurance that such provocation may not recur. It is one of the consequences of occupying a position of responsibility and trust with respect to a financial institution which is owned by a foreign country. Such a position inevitably involves the exercise of much patience and tact.

Very sincerely yours,

HENRY L. STIMSON

817.516/190: Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, October 7, 1929—6 p. m.

141. By a letter dated October fourth Mr. Bailie of J. and W. Seligman advises the Department⁷¹ that he, Mr. Loree, and the

⁷¹ Not printed.

other American directors and officers of the National Bank and of the Pacific Railway of Nicaragua will present their resignations to the respective Boards at the meeting on October ninth. The resignations will take effect at the pleasure of the Boards but not later than December 31. The J. G. White Management Corporation will at the same time give notice to the Government of Nicaragua that it desires to cease to act as manager of the railroad properties. The letter adds that Brown Brothers and Seligman are advising the Corporation of Foreign Bondholders that they intend to take immediate steps to withdraw as "bankers" under the Financial Plans.⁷²

STIMSON

817.77/248 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, October 29, 1929—3 p. m.

[Received 4:55 p. m.]

258. Department's No. 141 October 7, 6 p. m. President Moncada has just told me that Mr. Kennedy, local manager of the Pacific Railway, notified him this morning that the White Corporation will terminate its management on November 9. I have discussed this with the President and agree with him that the situation which would be thus created would seriously jeopardize the affairs of the railway, and I concur in his hope that the corporation will continue its management until this entire matter has been adjusted. I am sending this telegram with President Moncada's knowledge.

HANNA

817.77/248a : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, October 31, 1929—11 a. m.

148. Legation's 258, October 29, 3 p. m. The Department has been informally advised that the J. G. White Management Corporation stated that it would terminate its management of the railroad on November 9 or at such other date prior to December 31 as the Board of Directors of the Railroad Company may decide. It is assumed, therefore, that the Nicaraguan Government will have full opportunity to make other arrangements before the White Management Corporation withdraws.

STIMSON

⁷² For the financial plans of 1917 and 1920, see Department of State, Latin American Series No. 6: *The United States and Nicaragua, a Survey of the Relations from 1909 to 1932* (Washington, Government Printing Office, 1932), pp. 33-39; also *Compilacion de Contratos Celebrados con los Banqueros de New York, con el Ethelburga Syndicate de Londres y con el Banco Nacional de Nicaragua Inc., Leyes Relativos a los Mismos Contratos, 1911-1928, Arreglada por Cesar Arana* (Managua, Tipografia y Encuadernacion Nacionales [1928]), 3 vols. For the plan of 1917, see *Foreign Relations*, 1917, pp. 1138-1141.

817.77/249 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, November 1, 1929—5 p. m.
[Received 8 p. m.]

260. In view of the information contained in the Department's telegram 148, October 31, 11 a. m., President Moncada told me this morning that he will proceed on the assumption that the White Corporation will continue its management of the railroad until the end of this year.

HANNA

817.77/251 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, November 9, 1929—1 p. m.
[Received 5:40 p. m.]

268. By Presidential decree dated November 8, Mr. Kennedy is appointed acting manager of the Pacific Railway "with the obligation to deposit in the National Bank to the order of the government all funds of the railway," and Señor Porto Carrero is appointed assistant manager.

President Moncada has informed me that he has taken this action to insure continuity in the local management and that it does not alter his hope expressed in my telegram 258, October 29, 3 p. m. Kennedy is requesting cable instructions of the White Management Corporation.

HANNA

817.77/251 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, November 12, 1929—3 p. m.

159. Your 268, November 9, 1 p. m. The Pacific Railway is the property of a company incorporated in the United States and legally under the control of its Board of Directors, who are responsible for its management and its funds. While the Government which owns the stock is, of course, free to do whatever it likes with the company, it would appear that any disposition of the property should be made in a legal manner through action by the Board of Directors and not by arbitrarily assuming control of the property and of the funds. I feel constrained to ask you to point this out to President Moncada, because I fear that the action reported in your telegram above referred to, if persisted in, will not only interrupt the orderly operation of the railroad, but also make a most unfortunate impression on any new bankers who may look into the Nicaraguan situation. It is difficult to see how a railroad can continue to operate when all of its funds are deposited to the credit of the Government.

The Department has taken a very unusual step in expressing to American bankers its interest in President Moncada's efforts to reorganize Nicaragua's financial administration. I hope, therefore, that it may be found possible to avoid action which is likely to render futile the Department's efforts to be helpful.

The Board of Directors will meet Wednesday afternoon and it would be desirable that the President should send them before that time any new instructions which he may have to impart.

STIMSON

817.77/252 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, November 13, 1929—noon.

[Received 1:55 p. m.]

271. I laid your telegram 159, November 12, 3 p. m., before President Moncada last night. He has just told me that he would immediately give Dr. Sacasa cabled instructions in the matter and direct him to say that it was not the intention of the Government of Nicaragua to proceed in an illegal manner when it issued the decree reported upon in my 268, November 9, 1 p. m., nor to terminate its contract with the railway management.

HANNA

817.77/252 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, November 22, 1929—6 p. m.

160. Your 271, November 13, noon. At a meeting on November 13 the American members of the board of directors of the railroad resigned, giving as their reason the decree reported in your November 9, 1 p. m. The Nicaraguan directors had no instructions regarding a modification or postponement of the decree, but they had been instructed to proceed at once with the liquidation of the railroad company. They refused to consider suggestions by the Department and also by the bankers that the meeting might be postponed in order to allow time for further instructions to arrive. The Department understands that the railroad company is now being dissolved.

I am frankly somewhat embarrassed and much disturbed by these developments. The efforts which the Department has made to induce other bankers to assist Nicaragua in reorganizing her financial administration have been based on the assumption that President Moncada desired that the new bankers should manage both the railroad and the bank on behalf of the Government, in order to assure an efficient and non-political administration, and also upon the as-

sumption that, pending the negotiations, the President would not take steps which would radically affect the situation and the financial soundness of these enterprises. The dissolution of the railroad company does materially affect the situation, and I fear that it may well discourage the bankers who are looking into the matter. It would be especially unfortunate if the railroad's funds should be transferred to the Government and diverted to purposes not connected with the railroad.

[Paraphrase.] The Department has also been informed indirectly that Soley's instructions contemplate the operation of the National Bank under a Nicaraguan board of directors and the possible issue of paper money by the Government of Nicaragua. In his conversations with the Department Soley has suggested a Nicaraguan board of directors.

Because of the foregoing I feel that the Department should have more definite information regarding the President's plans for the bank and the railroad before asking the new bankers to spend further time and money in considering the situation. Take up this matter very frankly with the President and make it clear to him that you have been instructed to do so simply because it is my desire to be of service to him and to Nicaragua. [End paraphrase.]

STIMSON

817.77/258 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 23, 1929—4 p. m.

[Received 8:25 p. m.]

274. Department's 160, November 22, 6 p. m. [Paraphrase.] I discussed frankly with the President the situation as outlined and your deep concern over recent developments. . . . [End paraphrase.]

He first stated that he had given no instructions regarding the dissolution of the railroad company but later stated that he desired that the company be organized in New York with headquarters in Nicaragua. He said that he was informed that the company had already been dissolved. I pointed out to him the embarrassing position in which this action placed you and he told me that I could state to you that he would send immediately instructions to the board of directors of the railroad not to dissolve the railroad company or take any further action with respect to the railroad or the bank without the knowledge and prior approval of the Department. He said that I could tell you that and at my request he consented to give me a copy of his instructions in that sense which I shall forward as soon as received.

He stated that Soley Guell had no instructions beyond those he had furnished you in condensed form in personal letters. He insisted that he wanted the railroad to be an American company with American directors while still expressing his determination that headquarters of the company should be in Nicaragua. I pointed out the inconsistency in the two things but frankly can give no assurance that the President was impressed.

After I had referred to the difficulty which might be encountered in finding bankers to interest themselves in Nicaragua under present conditions, he stated that if this could not be done he would sell the bank. He repeated that everything was in your hands and I told him that they could not be in your hands while his agents acted independently of you and in a manner to create difficulties for you and for him. He said that he was not moved by passions but that he thought his representatives in the United States probably were. I reminded him that the responsibility in that case was his.

He said that any arrangement you made with any group of bankers would be satisfactory to him but immediately afterwards stated that he would rather sell the bank than permit it to buy and sell coffee. Still later he said that that was simply an objection he had and he would not insist upon it if you did not agree with him. He then referred to Nicaragua's need of new banking laws to restrict the activities of all banks.

[Paraphrase.] I made no mention of the information which you had concerning the possibility of the Government's issuing paper money.

. . . With the permission of the Department I should like to take Mr. Rosenthal to see the President next week and have a frank unofficial talk with him concerning the entire situation. [End paraphrase.]

BEAULAC

817.77/261 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 25, 1929—noon.

[Received 1:40 p. m.]

275. Supplementing my 274, November 23, 4 p. m. The Minister of Finance following decree of November 8th, appointing Kennedy acting manager, instructed the National Bank in writing to place railroad funds at order of the Government. This order was later countermanded verbally by President Moncada. Government is paying salaries of railroad employees with money borrowed from the Anglo-South American Bank.

Rosenthal has cabled to New York office of the National Bank requesting that it ascertain from new board of directors of railroad whom the board has authorized to draw funds needed for payrolls, et cetera. In order to preserve railroad funds and still carry on, it is suggested that new board of directors direct the National Bank from time to time to place certain funds at the disposal of the Government or local officials of the railroad, such funds being limited strictly to needs of operation.

BEAULAC

817.516/212 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, December 3, 1929—4 p. m.

167. Legation's 278, December 1, 3 p. m.⁷³ While the Department would view with much satisfaction the adjustment of the relations of the Government of Nicaragua and the American Bankers, it does not perceive how it could with propriety assume the initiative in suggesting to President Moncada that he send another representative to the United States for that purpose or in suggesting to the Bankers that they reconsider their intention to withdraw.

Should President Moncada indicate his views on this subject in a more direct and specific manner, the Department would of course give them its earnest consideration.

STIMSON

817.516/220 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 6, 1929—4 p. m.

[Received 7 p. m.]

283. Legation's 280, December 5, 2 p. m.⁷³ President Moncada has asked me to tell you that he will give immediate instruction to his agents in the United States to cease negotiations with the bankers. He would like you to name a person to confer with the present group of bankers or with another group and he states that he will accept any suggestion by you or that person whether it be to continue with the present group if they are willing or will interest another. In the meantime he would like you to ask the present group to continue beyond December 31 until definite arrangements have been made. He states that he is well satisfied with the present bankers, that he is of the opinion that they have been of great assistance to Nicaragua and that his desire is that dividends which the bank and railway

⁷³ Not printed.

may fairly declare without in any way prejudicing themselves be made available to him for public works of which the country is in urgent need. The above has been shown to President Moncada and meets his approval.

There are indications that the President would like nothing better than to have the present banking group remain. Aside from that however the obvious next step would appear to be to induce the bankers to stay on at least for a time. You have already given President Moncada many indications of your confidence in the present banking group and I believe that a suggestion that he request them to continue to serve the Government of Nicaragua would soon be entirely in order and would assist President Moncada in extricating himself from his present predicament. He could make the request through the Department and a favorable report of the auditors would enable him to justify himself before his followers, many of whom are exerting great pressure upon him to nationalize the bank and the railroad.

The President said that he had lost confidence in both . . . and . . . , both of whom wished to nationalize the bank and the railroad and that he hoped they would resign.

BEAULAC

817.516/220 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, December 9, 1929—2 p. m.

171. Your 283, December 6, 4 p. m. Please speak with the President again and explain to him that the Department cannot under the circumstances endeavor to persuade the present bankers to continue their connection with Nicaraguan affairs. These bankers have definitely stated their intention of withdrawing and the new group who became interested in the situation through the Department's efforts to help Nicaragua in this matter have already spent much time and incurred some expense in studying Nicaragua's financial problems. Consequently it is only fair to permit them to present a plan for consideration and to see whether satisfactory arrangements can be made with them.

You may further explain that the Department could not carry on negotiations with the bankers on behalf of the Nicaraguan Government. It has endeavored in every proper way to facilitate their investigations and it hopes that they will soon be able to submit a plan as a basis of discussion with the Nicaraguan Government. If President Moncada does not wish the Nicaraguan representatives here now to continue negotiations with the bankers there would appear to be no reason why their proposals and recommendations should not be transmitted directly to him through the Nicaraguan Legation here or through you.

While the Department does not feel that it can now ask the present bankers to continue their connection indefinitely it is prepared to ask them not to withdraw definitely from the bank's management until a short time after December 31 if a delay proves necessary and advisable. It feels, however, that such a request can best be made when the negotiations with the other bankers are further advanced.

Please emphasize the fact that this Government desires to help the President in this matter in every proper way.

Tell the President that I shall send a reply by air mail in the very near future to his personal letters of December 2 and December 3, which have just reached me.⁷⁵

STIMSON

817.516/222 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 13, 1929—4 p. m.

[Received 7:24 p. m.]

285. Department's 171, December 9, 2 p. m. President Moncada has every pleasure at your message and requests that the proposals and recommendations of the bankers be transmitted to him through this Legation. He says that he has instructed his representatives in Washington to cease to intervene in the matters under discussion.

BEAULAC

817.516/225a : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, December 18, 1929—6 p. m.

173. The new bankers have submitted a proposal for a preliminary agreement covering the management of the bank. Sacasa has sent this proposal by air mail, which should reach Managua tomorrow. The text is as follows:

"Preliminary Agreement between the Republic of Nicaragua (hereinafter called the Republic) and Otis and Company, The Equitable Trust Company of New York and Whitney National Bank of New Orleans (hereinafter called the bankers).

The Bankers agree to accept appointment as the Fiscal Agents of the Republic on the following terms and conditions:

1. The Bankers will familiarize themselves with the financial problems of the Republic in order that they may be able to give the benefit of their judgment on any specific question of financial policy which the Republic may refer for their consideration. The Bankers on their part may also submit their recommendations to the Republic whenever they deem it to be in the interest of the Republic to do so. The

⁷⁵ Not printed.

Bankers may retain experts and consultants in connection with any studies or investigation which they may make respecting the financial problems of the Republic. The Republic will facilitate such investigations, cooperate fully with the bankers and their representatives, and make available such information, records and reports as may reasonably be requested. The Republic will keep the Bankers fully informed as to all matters of public finance.

2. The nominee of the Bankers will take over and conduct the management of the National Bank of Nicaragua (hereinafter called the Bank) on the condition that the Republic shall make arrangements acceptable to the Bankers to insure the continuity of policy of the Bank under such management. Whitney National Bank of New Orleans will designate the person who will act as Manager of the Bank and supervise its operations. The Republic will forthwith furnish the Bankers with an audit of the Bank satisfactory to them and by accountants whom they approve. The Republic agrees that, prior to the time such Manager takes over the management of the Bank, it will not make or permit any change in the condition of the Bank as represented by such audit, except such changes as occur in the regular and normal course of business.

3. The Republic agrees that the matter of handling the funds of the Bank shall be left entirely to the Management of the Bank and further agrees that all funds of the Republic and of the Bank maintained in the United States shall be deposited with the Bankers or as the Bankers may direct. The terms of such deposits shall be subject to mutual agreement.

4. In case the Republic shall contemplate any external financing it will first negotiate solely with the Bankers. If the terms of the Bankers are not acceptable, it is understood that the Republic may then negotiate with others, but in this event the Bankers shall have the right to take over the financing in question at the price and on the terms offered by any other responsible banking house.

5. The Bankers assume no obligation with respect to any financial agreements or plans which the Republic has heretofore entered into and no duties, obligations or responsibilities of any nature are to be implied from this agreement except as herein specifically set forth. Further, it is clearly understood that this agreement does not create any trust or obligation in favor of, or confer any privileges or benefit on, any bondholder or creditor of the Republic.

6. The Republic represents that it is not a party to any agreement which in any respects is inconsistent with the terms of this agreement.

7. Having in mind the very proper desire of the Republic to keep its expenses at the lowest possible point, the Bankers renounce any claim for compensation for their services as Fiscal Agents. From time to time, if specific services are rendered, arrangements will be made by mutual agreement for compensation for such services. The Republic will reimburse the Bankers for all their expenses in connection with this agreement, and will defray the compensation and expenses of such experts, auditors or other consultants as the Bankers may retain, and the fees and expenses of counsel to the Bankers in connection with the preparation and execution of this agreement.

8. The Bankers reserve the right to resign at any time on thirty days notice to the Republic, delivered at the Legation of the Republic in Washington, D. C., or cabled to the Minister of Finance at Managua, Nicaragua.

9. This agreement has been submitted to the Secretary of State of the United States who has assured the parties that he perceives no objection thereto. It is understood that the agreement shall not enter into effect until it has been approved by the Executive and the Congress of the Republic."

The draft was accompanied by the following statement:

"Prior to entering into the annexed agreement the Republic through its duly authorized representative shall address a communication to the Bankers requesting them to act as Fiscal Agents and outlining in terms satisfactory to the Bankers the program of the Republic with respect to financial and economic matters. Appropriate reference may be made to this letter in the agreement."

You may discuss this matter with the President and furnish him with the text if he has not received it from other sources. You may say that this preliminary agreement is believed to offer a practicable solution for the problem of providing a temporary management for the bank pending the working out of a more comprehensive plan which will require time. Please inform the Department by cable of any views which the President may express regarding the draft agreement.

STIMSON

817.516/226 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 20, 1929—10 a. m.

[Received 12:10 p. m.]

287. Legation's 283, December 6, 4 p. m. Rosenthal has been instructed by the bankers to turn over to the senior Nicaraguan officer December 26th. There is great danger that this action will produce a run on the bank with serious results. Many of the principal depositors, including the United States Marine Corps, have privately expressed their intention of withdrawing funds when Rosenthal leaves. His departure will also be construed locally as a move on the part of the present bankers to wreck the bank. I strongly urge that the Department take immediate steps before the holiday season to request the present bankers to stay on until the new group takes over.

BEAULAC

817.516/226 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, December 20, 1929—6 p. m.

174. Legation's 287, December 20, 10 a. m. As was indicated in the Department's 171, December 9, 2 p. m., it has been the Department's opinion that it could with more propriety request the present bankers to continue in the management of the National Bank of Nicaragua for a short while longer when the negotiations with the new bankers had assumed a more tangible form.

With the Department's 173, December 18, 6 p. m., there was forwarded to you a copy of the preliminary agreement for the management of the bank which has been proposed by the new bankers. If this proposal has met with President Moncada's approval and arrangements with the new bankers based on it seem likely to be concluded in the near future, the Department would feel justified in requesting the present bankers to continue their management of the bank for the brief period remaining until it is taken over by the new group.

Please report President Moncada's views on this matter immediately by cable.

STIMSON

817.516/227½ : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 20, 1929—10 p. m.

[Received December 21—11:10 a. m.]

288. Department's 174, December 20, 6 p. m. I delivered the text of the proposed preliminary agreement to President Moncada who requested time to study it in detail. I requested an interview with him today but he asked me to postpone my call until 9 o'clock tomorrow morning. I have just received from him the text of a "counter proposal made to the bankers in the form believed most favorable to Nicaragua." The counter proposal differs from the proposed preliminary agreement as follows.

Article 1. After the third sentence is inserted the following: "The retention of such experts and consultants however should be subject to mutual agreement."

Article 3. At the end of the article is inserted the following: "However, it is hereby understood that 90 per cent of all funds in excess of the normal requirements of a reserve fund shall be subject to the control of the Republic for the purpose of expending on the advancement of national projects; and it is further understood that the amount of the reserve fund retained to meet emergencies shall

be in the same proportion as that provided for by the national bank rate laws of the United States."

Article 7. In the third sentence after the word "compensation" the phrase "and expenses" is omitted. At the end of the paragraph the expression "in connection with the preparation and execution of this agreement" is omitted. At the end the following has been added "however, the appointment, compensation and expenses of such experts, auditors, counsel or consultants shall be subject to mutual agreement."

Article 8. At the end of the article the following has been added "the Republic also reserves the right to cancel and conclude this agreement on 90 days notice to the bankers delivered at the Consulate at Washington, D. C. or cabled to bankers. And it is further understood that in case this agreement is at any time canceled and concluded that the bankers will not relinquish control of and supervision of the operation of the bank until an audit of the bank has been concluded by a group of auditors selected by mutual agreement."

A new article 9 has been included as follows: "The Republic reserves the right to appoint, subject to mutual agreement, a first assistant manager of the bank; and it is also understood that the Republic reserves the right to make an audit of the bank if and when the Republic considers such audit desirable. In case such audit is made the accountants will be selected by mutual agreement."

Article nine in the original is as ten of the counter proposal.

BEAULAC

817.516/228 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 21, 1929—10 a. m.

[Received 1:30 p. m.]

289. Legation's 288, December 20, 10 p. m. I have just seen President Moncada who requests that the following clause be added to his counter proposal: "In case of a disagreement arising between the Republic and the bankers, it is hereby understood that both parties to this agreement will abide by the decision in the matter under discussion of the Secretary of State of the United States or a representative duly appointed by him."

President Moncada stated that his counter proposal was in the way of a suggestion and that he would not insist on points unacceptable to the bankers or to the Department. Without my suggesting it in any way he requested me to ask you to request the present bankers in his name to stay on temporarily until new arrangements for the bank have been made.

BEAULAC

817.516/227½ : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, December 23, 1929—6 p. m.

175. Referring to your No. 288, December 20, 10 p. m., and No. 289 December 21, 10 a. m.

The new bankers and the Department have been informed that Soley has been discussing possible arrangements for the management of the National Bank and also of the Pacific Railroad with several bankers, apparently in an endeavor to obtain terms more satisfactory than those which Otis & Company and their associates have proposed. In view of the fact that the Nicaraguan Government is still negotiating with the bankers whom the Department suggested to them this has placed the Department in a somewhat embarrassing situation and has made Otis & Company and their associates doubtful about the advisability of proceeding further. When the Department asked Dr. Sacasa and Soley about this the latter said that he had discussed the Nicaraguan problem informally with several bankers in an effort to ascertain what were the best terms which he could obtain, and that he had done so because he was under the impression that President Moncada had rejected the proposal made by Otis & Company and communicated to you in the Department's 173, December 18, 6 p. m. He was informed that the Department had no interest in any one group of bankers and wished only to assist the Nicaraguan Government in any proper way in making an arrangement which would be satisfactory to it, but that it was embarrassing to the Department to find that the matter was being discussed with other bankers when the proposition made by the bankers whom the Department had interested in the matter was still pending.

After the receipt of your No. 288, December 20, 10 p. m. the Department again conferred with Sacasa and Soley, but found that they had no instructions about making any counter proposal.

It was perhaps President Moncada's intention that the Department should convey his counter proposal to Otis & Company and ascertain their reply. The President will realize, however, that the Department cannot very well conduct the negotiations as his representative, and that it would be preferable for the Nicaraguan Government itself to deal with Otis & Company. The President may wish either to instruct Soley to present a counter proposal, instructing him along the lines of the statement contained in last paragraph of your 289, December 21, 10 a. m., or to invite the bankers to send a representative to Nicaragua who could deal with the President and the Minister of Finance directly. The Department believes that the bankers would accept such an invitation if the Nicaraguan Government paid the expenses of the representatives.

In discussing the above with the President please make it clear that the Department is simply trying to be helpful and not in any sense seeking to direct the President's action. In particular the Department desires that there should be no suggestion of any complaint regarding the conduct of Sacasa and Soley. The Department is laying the situation very frankly before the Nicaraguan Government, because it fears that it will be difficult to reach an arrangement with Otis & Company or any other bankers unless a satisfactory method of conducting subsequent negotiations is adopted. In the Department's opinion direct negotiations in Managua would produce the most satisfactory results.

The Department has informally stated to Seligman and Company that it would be helpful if the former bankers would continue their connection with the bank for a time.

STIMSON

817.516/231 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 27, 1929—5 p. m.

[Received 8:46 p. m.]

292. Department's 175, December 23, 6 p. m. President Moncada is very anxious to reach an immediate agreement with the bankers which he can present to Congress to offset pressure upon him to nationalize the bank. With this in mind he states he will send to Sacasa the following telegram:

"With reference to the proposed preliminary agreement with the new bankers transmitted by you on (date to be inserted) you are informed that I have transmitted to the Department of State through the American Legation in Managua a counter proposal embodying certain suggested changes. You are hereby authorized to present that counter proposal to the bankers and to sign on behalf of the Government of Nicaragua the proposed preliminary agreement embodying such of the changes suggested by me as are acceptable to the bankers and meet the approval of the Department of State."

With reference to the next to last paragraph of the Department's telegram 173 of December 18, 6 p. m., President Moncada says he will ask Sacasa to suggest that the agreement to be signed contain a clause providing that the agreement will not be effective until the communication to the bankers has been made and accepted by them.

President Moncada states that both Soley and Carazo Morales have presented their resignations and he fears that Sacasa is not strongly in sympathy with his ideas.

BEAULAC

817.516/227 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, December 27, 1929—6 p. m.

176. Department's 175, December 23, 6 p. m. At the meeting of the Board of Directors of the National Bank on December 24 the Nicaraguan representatives made no request that the American directors continue after December 31. In view of this the former bankers continued with their plans to turn over the management of the bank to the two senior Nicaraguan officers on December 26.

The Department in informally requesting the bankers to continue their connection with the bank for the present acted in accordance with President Moncada's request as conveyed in your 283, December 6, 4 p. m. The Nicaraguan members of the Board of Directors, however, apparently received no instructions in the premises.

STIMSON

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE PROVISIONAL CLAIMS COMMISSION⁷⁶

417.00/310a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, February 1, 1929—7 p. m.

20. The bankers have shown us a telegram from the Collector General of Customs, received January 23, stating that the Nicaraguan Government proposes to reestablish the Claims Commission and issue internal bonds, interest and amortization which will be provided for by certain additional import and export duties. The bonds presumably will be used to liquidate the claims.

Discreetly investigate and report the plans of the Government with regard to reestablishing the Claims Commission and the payment of claims. The Department feels that the advisability of issuing a new series of internal bonds for the payment of claims is a very important matter and one to be decided upon only after very careful consideration, and it believes that the financial structure of Nicaragua should be made more simple and not more complicated.

KELLOGG

⁷⁶For previous correspondence concerning the establishment of a Claims Commission, see *Foreign Relations*, 1927, vol. III, pp. 458 ff.

417.00/311 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 5, 1929—11 a. m.

[Received 3:15 p. m.]

41. Department's 20, February 1, 7 p. m. A despatch on this subject is in the mails.⁷⁷ The President requests the early appointment of the American member in order that the Claims Commission may resume work. Both he and Lindberg⁷⁸ are of the opinion that the American High Commissioner should not act on claims. It is almost impossible to secure a suitable American in Nicaragua. The President has suggested the name of Colonel Cornelius Smith, retired army officer, who served here with the McCoy election mission.⁷⁹ Please reply by telegram whether his appointment or that of another is being considered and any other information which may prove useful to the President. The Department's attitude toward issuance of a new series of internal bonds referred to in the same cable has also been explained to the President.

EBERHARDT

417.00/311a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, February 8, 1929—6 p. m.

25. Your 41, February 5, 11 a. m. The Department feels that the question of reconvening the Claims Commission and providing for the payment of awards will require very careful consideration and thorough study before any further steps are taken. This subject is of the greatest importance to the Department, because of the large amount of claims which have been filed by American citizens. The Department had presumed that further legislation would be enacted, even though not necessary for reconvening the Commission, and such further legislation was mentioned in your despatch 727, July 7, 1928⁷⁷ in connection with the proposed new Financial Plan. Inasmuch as no new Financial Plan materialized, and none is in prospect in the immediate future, it would appear that the question of reconvening the Claims Commission and making provision for the payment of awards will have to be considered as a separate measure. The Department is prepared to consider the selection of a suitable American representative when the time comes for the new Commission to be created. In the meantime, however, the Department de-

⁷⁷ Not printed.⁷⁸ Irving A. Lindberg, Collector General of Customs and member of the High Commission.⁷⁹ See *Foreign Relations*, 1928, vol. III, pp. 418 ff.

sires you to discuss the question of the reconvening of the Claims Commission and the preparation of new legislation, if any seems necessary, with President Moncada, and report to the Department fully his and your views on this whole subject.

KELLOGG

417.00/313

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 917

MANAGUA, February 16, 1929.

[Received March 1.]

SIR: With reference to the Department's telegrams No. 20 of February 1st (7 p. m.) and No. 25 of February 8th (5 p. m. [6 p. m]) and my despatch No. 910 of February [2]⁸¹ and telegram No. 41 of February 5th (11 a. m.), I have the honor to transmit herewith a copy and an English translation of a note from the Foreign Office^{81a} in which it is stated that it is the intention of the Government of Nicaragua that the Claims Commission created by the law of December 3, 1926,⁸² resume its functions shortly, and therefore President Moncada formally requests that the United States Government designate the American member on that Commission.

Some weeks ago President Moncada informally expressed to me his desire that the Claims Commission which was created for the purpose of passing on claims for damages which arose from the recent revolution and which has been inactive since March 31, 1928, resume its activities at an early date. He therefore desired to take up the matter of the appointment of an American member designated by the United States Government to succeed Mr. Roscoe R. Hill who had resigned. In view of the fact that the Department felt that the question of reconvening the Claims Commission and providing for the payment of awards was one which required careful consideration and thorough study before any further steps were taken, I discussed with the President the subject of the re-establishment of the Commission and the preparation of new legislation if any seemed necessary. He informed me that he would submit his views on these matters in writing so that they might be transmitted to the Department for its consideration.

The result of my interview with him was the above-mentioned note, which is very indefinite and conveys no idea regarding his plans. Consequently it was necessary for me to again confer with President Moncada. He stated confidentially to me that it was his intention to

⁸¹ Despatch not printed.

^{81a} Not printed.

⁸² See despatch No. 310, December 9, 1926, from the Chargé in Nicaragua, and its enclosure, *Foreign Relations, 1927*, vol. III, p. 461.

wait until after the adjournment of Congress before actually re-establishing the Claims Commission, because he felt that the Legislature would display its usual strong opposition to the appointment of foreigners to official positions in the Nicaraguan Government, especially if the American member were given the veto power. He referred to the recent opposition on alleged legal and constitutional grounds to the appointment of General McCoy as President of the National Board of Elections. He therefore preferred to provide for the reconvening of the Commission by Executive Decree after the close of the present session of Congress when he would consider any suggestions regarding such amendments to the proposed decree as may seem necessary.

I specially mentioned to him three important points which had not been included in the law of December 3, 1926, and which should apparently be considered before the new Decree is promulgated: (1) Giving the veto power to the American member of the Commission. It is understood that this feature appeared in the original draft of the law of December 3, 1926, but that it was eliminated by the Chamber of Deputies; (2) the inclusion of a provision that the proposed Commission would have jurisdiction over claims for personal injuries to noncombatants, as suggested in the Department's instruction No. 228 of May 14, 1927;⁸³ and (3) the extension of the authority of the Commission to include losses suffered since June 30, 1927, in the Departments where fighting and disorders have been going on since that date.

With reference to the first mentioned, General Moncada said that he was strongly in favor of granting veto power to the American member of the Claims Commission. In regard to the other two points, he stated that he was inclined to favor such amendments as they appeared to him very just, and that they would be studied before the issuing of a new decree. I explained to him that these matters were of such a nature that they should, if approved, be included in the law itself instead of being provided for in any Regulations which may be issued by the reconstituted Commission.

In regard to the method of payment of the awards of the Commission, the President stated that he was strongly opposed to the floating of a loan for this purpose at this time, and he believed that by the exercise of rigid economy in Government expenditures they could be met out of current revenues. He felt also that public opinion was very adverse to a loan. He asserted that his plan is to issue internal bonds the interest and amortization of which would be provided by using the funds produced by the re-enactment of the special tax law of January 21, 1927, approval for the continuation of which

⁸³ *Ibid.*, p. 463.

has now been granted by the bankers and the High Commission. The Government received from this source during the life of the tax approximately \$300,000 annually, and it is his hope that the entire amount of the claims may be gradually reduced at this rate.

On February 10th there was published in the local press a project of law of the Minister of Hacienda which would provide for the authorization of an issue of internal guaranteed customs bonds up to a sum of five million dollars for the payment of the awards of the Claims Commission. A copy of this project is transmitted herewith.⁸⁴ It will be seen that it follows closely the lines of the law authorizing the Guaranteed Customs Bonds of 1918, and that the funds to be provided as guarantee of the bonds are the revenues from the twelve and one-half per cent surcharge on import duties established by the law of January 21, 1927; the additional tax on import duties on liquors and tobacco created by the same law; by re-enacting the additional tax on coffee exports established by the same law, which tax expired on January 25, 1929; and in the absence of sufficient revenues derived from the above duties and surcharges, any part of the surplus revenues remaining after the expenses of the Guardia Nacional and the service of the Bonds of 1909 and 1918 have been met.

Immediately after the publication of this project, I saw President Moncada and expressed surprise that the Nicaraguan Government planned to enact such legislation at this time, since the question of the payment of awards of the Claims Commission required very careful consideration and thorough study before any definite steps were taken. He informed me that this project was published merely for the purpose of satisfying public opinion and that he had no intention of having such a law presented to Congress for enactment at this time. He stated that in any event he would not recommend the issuance of internal bonds for a sum larger than three million dollars.

President Moncada is of the opinion that the Claims Commission should begin as early as possible its work of adjudicating the claims arising out of the recent revolutionary disturbances, and desires that the United States Government designate the American member as soon as it can conveniently do so. I concur in his opinion, since it is important to have some idea of the total amount of the claims before the question of the payment of the awards can be intelligently considered. The Department's views on the question of the re-establishment of the Claims Commission and the payment of awards are respectfully requested.

I have [etc.]

CHARLES C. EBERHARDT

⁸⁴ Not reprinted.

417.00/321a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 22, 1929—4 p. m.

57. Your despatch No. 917 of February 16. It would apparently be impossible for this Government to designate a new American member of the Claims Commission until the law of December 3, 1926 is amended so as to remove the requirement that the President of the Commission be the American member of the High Commission. Certain further amendments in the law seem desirable to meet present conditions:

1. The salary of the American member should be increased. The Department believes that \$10,000 would be an appropriate salary, since it will be necessary to find some good man to go to Nicaragua for this work.

2. The present law and the amendments made in March, 1928, apparently do not extend the jurisdiction of the Commission to include losses caused by the outlaw raids in Rio Grande and Prinzapolka. Furthermore, the language of the law of March 19 does not clearly cover all claims by persons or companies who suffered losses in the other Departments where the outlaws were operating as it refers only to inhabitants of these Departments. It would seem desirable that new legislation should clearly authorize the Commission to deal with the losses occasioned by the operations of the outlaws in the north up to the date of the reconvening of the Commission.

3. The Department understands that the Commission at its previous sessions received and classified all claims against the Nicaraguan Government up to June 30, 1927, acting under the authority of the Presidential Decree of November 10, 1927. The existing laws limit the authority of the Commission to passing upon claims for war exactions, requisitions and war damages to property. It would seem that the jurisdiction of the Commission might well be extended to cover all other pending obligations of the Nicaraguan Government arising since October 25, 1925 as the result of the civil strife.

President Moncada may also wish to have the law amended so as to give the American member the veto power in accord with his opinion as expressed at the time of the Tipitapa Conference and during his visit to Washington.⁸⁵ The Department believes that this matter should be left to his discretion after it has been brought to his attention.

The Department has hitherto suggested that the jurisdiction of the Commission be extended to include personal injury claims and

⁸⁵ See telegram No. 168, October 28, 1927, 6 p. m., from the Chargé in Nicaragua, *Foreign Relations, 1927*, vol. III, p. 466.

the Nicaraguan Government in its note to you of June 14, 1927,⁸⁶ promised to initiate legislation to this end. The Department is not, however, disposed to insist on such an amendment.

Since President Moncada apparently contemplates reconvening the former Commission I assume that any new appointments of Nicaraguan members will be made in the manner contemplated by the Tipitapa Agreement—that is upon the nomination of the central authority of the political party to which the outgoing member belongs. Please ask him to confirm this understanding.

The Department's experience with other claims commissions in Nicaragua and elsewhere has indicated that the settlement of claims and the acceptance by claimants of the awards is greatly facilitated if definite provisions for payment are made before any claims are adjudicated. It would appear desirable, therefore, for the Nicaraguan Congress promptly to enact a law covering the method of payment. The Department sees no objection in principle to the plan for payment in internal bonds but believes that any legislation on this subject should be discussed with the High Commission and the bankers before final adoption, in order to make certain that no difficulty arises by reason of conflict with the Financial Plan. With respect to the specific project transmitted with your despatch No. 917 the Department desires to point out that there would be a great saving to the Nicaraguan Government and probably a more rapid amortization of the bonds if the High Commission were required to purchase bonds for the semi-annual amortization at market price if below par, and to resort to drawings only if the market price were above par.

Past experience has also shown the desirability of paying a part of the awards and especially the very small awards in cash. The special taxes will doubtless provide a considerable sum during the interval before the new internal bonds are issued in payment of the Commission's awards and it is suggested that this sum might be used for cash payments.

You may suggest to President Moncada the advisability of presenting the legislation above outlined to Congress at its forthcoming special session. You may say that the Department views with sympathetic interest the project for reconvening the Claims Commission and will be most glad to cooperate by appointing an American member as soon as the existing law is changed so as to make such an appointment possible.

STIMSON

⁸⁶ Not printed; but see despatch No. 429, June 15, 1927, from the Minister in Nicaragua, *Foreign Relations, 1927*, vol. III, p. 463.

417.00/322 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 23, 1929—5 p. m.

[Received 8:48 p. m.]

119. Department's April 22, 4 p. m. paragraph three. Legation believes that jurisdiction of Commission should be extended also to unpaid obligations of the Nicaraguan Government incurred during that period. An example is the loan of the Hibernia Bank to the Chamorro Government.

With reference to provision for payment of claims, the Legation believes that legislation providing for such payment should be coincident with legislation creating the Commission and that such legislation should be presented to the Legation, the High Commission and the bankers and approval obtained before submission to Congress. The present special session will probably terminate early next week. There is obviously not time to prepare adequate legislation, obtain its approval, and have it passed by Congress before the present session adjourns. It is estimated that the work involved would take at least three months. It is therefore recommended that this matter be submitted to Congress at the next regular session.

The Legation believes it important that any legislation intended to provide funds for payment of claims should be considered by the Department and the bankers in connection with the proposed new financial plan.

I shall not discuss this matter with the President until the Department's reply is received.

EBERHARDT

417.00/323 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 1, 1929—10 a. m.

[Received 2:10 p. m.]

128. Legation's April 23, 5 p. m. President Moncada expressed to me yesterday his desire to create a temporary claims commission by Executive decree to meet very soon to study and classify claims, pending the creation by Congress in its next regular session of a permanent commission with authority to adjudicate claims. The President suggested that some local American such as Mr. Frizzell be named at \$300 a month on the temporary commission. If the Department preferred to send a man from the United States he would pay a higher salary. He again suggested Colonel Cornelius C. Smith as acceptable to him on both the temporary and permanent commissions.

I suggest to the Department the possible convenience of Colonel Smith or another appointee serving on both the claims commission and the national council of elections.

EBERHARDT

417.00/323 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, May 2, 1929—6 p. m.

63. Your 119, April 23, 5 p. m. and 128, May 1, 10 a. m. In the Department's opinion the most practical and generally satisfactory procedure would be to constitute immediately a Commission authorized to settle as well as to study and classify the claims. It is not thought that the preparation of the necessary legislation should take very long. You may informally inquire whether it would not be possible for the present Congress to take a short recess or to be convened later in another special session as soon as the draft of the legislation is ready. The Department is inclined to the belief that it would be better to deal with this whole question now without awaiting a revision of the Financial Plan.

With regard to the extension of the jurisdiction of the Claims Commission over general obligations of the Nicaraguan Government, the Department feels that this is a matter for that Government to decide. The Department particularly desires that the Legation take no action with respect to the Hibernia Bank claim.

STIMSON

417.00/324 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 7, 1929—2 p. m.

[Received 8 p. m.]

131. Department's 63, May 2, 6 p. m. President Moncada told me this morning that he plans to constitute a Claims Commission by presidential decree very soon after the present extraordinary session of the Nicaraguan Congress adjourns at the end of this week. The American member of the Commission will have absolute veto power. The Commission will receive and settle all claims arising since October 25, 1925, as the result of the civil strife. The work of the Commission will be revised and the amount of all claims definitely fixed by another similar commission to be created with the approval of the Nicaraguan Congress at its next regular session. Provision for the payment of the claims will also be submitted to the Congress at that regular session.

The President does not deem it prudent to submit the matter to Congress before the regular session but thinks he can carry through the plan outlined above and is eager to create a Commission without delay. He will submit the decree for the Department's consideration before making it public.

EBERHARDT

417.00/325 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, May 21, 1929—4 p. m.

[Received 6:12 p. m.]

143. Legation's telegram 131, May 7, 2 p. m. President Moncada told me today that he is anxious to constitute the proposed Claims Commission and is only awaiting the Department's designation of the American member. He said nothing of submitting the decree creating the Commission for the Department's consideration.

He also brought up the subject of American supervision of Nicaraguan elections (see my telegram of May 16, 11 a. m. 138)⁸⁷ and said he would appreciate the Department's further views in the matter.

HANNA

417.00/325 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, May 25, 1929—3 p. m.

80. Your 143, May 21, 4 p. m. If President Moncada wishes to submit a formal request for the designation by this Government of a member of the Claims Commission, stating the terms of employment and giving full information about the manner in which the Commission will be constituted and the powers which it will enjoy, the Department will be very glad to consider the immediate designation of some qualified person. A copy of the decree which the President proposes to issue would be most useful in this connection.

The Department has not yet been informed how President Moncada proposes to have the Nicaraguan members of the Commission appointed. Please obtain information on this point.

STIMSON

⁸⁷ *Ante*, p. 649.

417.00/326 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, May 27, 1929—4 p. m.

[Received 8:32 p. m.]

146. I have brought your 80, May 25, 3 p. m. formally to the attention of the Nicaraguan Government.

It appears from a conversation I had with President Moncada a few days ago that there has been a misunderstanding in this matter. He said it is and has been his intention to create the Claims Commission under authority of the law of December 3, 1926, as amended in March 1928 and not under authority of an Executive decree. He added that if the Commission cannot be created in that manner its creation will have to be postponed until the Nicaraguan Congress convenes in ordinary session. He had thought the Department might name an American member other than the resident American member of the High Commission in spite of article 2 of the law.

I have consulted with Lindberg and he says he can make arrangements to give the Commission at least half of his time now and more later on. He would bring Downing, the Deputy Collector on the Atlantic Coast, to Managua until Crampton, his Deputy Collector, returns from leave in September. If President Moncada's reply to your 80 is what I anticipate this will probably be the best if not the only way to create the Commission.

HANNA

417.00/327 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 7, 1929—11 a. m.

[Received 2:10 p. m.]

156. My 146, May 27, 4 p. m. I now have the formal reply of the Minister of Foreign Affairs. He says that although article 2 of the convention [*law*] of December 3, 1926, creating the Commission provides that the two Nicaraguan members of the Commission shall be appointed by the Executive, it is President Moncada's desire and intention that they be appointed by the directing boards of their respective parties "in order thus to fulfill the aims of conciliation and justice which inspired the Tipitapa Agreements." The formal request for the designation of the American member of the Commission was made in the Foreign Office note transmitted with the Legation's despatch of February 16th, 1929.

President Moncada told me he fears that the Conservative Party, because of existing dissensions, may not be able to agree upon its

member but said he would find a way to meet that difficulty should it arise.

Lindberg can begin work on the Commission without delay if named as the American member.

HANNA

417.00/327a : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, June 7, 1929—6 p. m.

84. Legation's 156 [146], May 27, 4 p. m. The Department considers it impracticable for the American Member of the High Commission to serve on the Claims Commission but is prepared to designate a suitable American member if notwithstanding Article two of the Law of December 3, 1926, the Nicaraguan Government feels that it can appoint another person and provide suitable compensation for him as discussed in the Department's No. 57 of April 22, 4 p. m.

What arrangements are contemplated by President Moncada for the payment of the Commission's awards?

STIMSON

417.00/328 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 8, 1929—noon.

[Received 3:15 p. m.]

157. Department's 84, June 7, 6 p. m. The Commission is to be created under the law of December 3rd, 1926. Article 8 of that law fixes the salary of each member and article 2 prescribes who the American member shall be. I know of no process by which the law can be legally changed in these respects before the Nicaraguan Congress reconvenes. President Moncada might assume the responsibility of disregarding these provisions of the law if he thought we would approve and I strongly recommend against our making any suggestion that might be thus interpreted by him or make us appear as a party to loose interpretation of law in this country. I also think it highly desirable that the American member of the Commission be an American now in this country thoroughly acquainted with conditions by long residence and that the number of high salaried Americans serving this Government should be kept at the minimum consistent with efficiency. Lindberg is admirably qualified for the position and can do the work without prejudice to his other duties. I have been repeatedly assured that he is acceptable to this Government.

I desire respectfully to invite attention to the foregoing and to receive your further instructions before making additional representations in the matter.

HANNA

417.00/329 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 20, 1929—3 p. m.
[Received 6:25 p. m.]

171. My 157, June 8, noon. Minister of Hacienda has formally requested the directing boards of the Liberal and Conservative Parties to name five candidates each, in order that President Moncada may appoint the respective representatives of those parties on the Claims Commission.

HANNA

417.00/328 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

[Paraphrase]

WASHINGTON, June 20, 1929—6 p. m.

92. Legation's telegram No. 128, May 1, 10 a. m., indicated that the President of Nicaragua wished to create a temporary Claims Commission with an American, other than a resident American member of the High Commission, as president. The suggestion of the Department in its June 7, 6 p. m., was made on the supposition that the President felt that he could legally carry out this program. If the President cannot do so, the Department feels that it would be preferable to wait until the law is amended by Congress.

Your 157, June 8, noon. The Department is unwilling to accept Lindberg as president of the Claims Commission. The Department understands that he has engaged in private business transactions, such as personal loans and investments in local enterprises in Nicaragua, and this, the Department feels, would make him ineligible.

If you consider it necessary you may explain informally to the President and to Lindberg that the Department feels that the president of the Claims Commission should be a person who has had no previous connection with Nicaraguan affairs, in order to eliminate all possibility of a feeling on the part of claimants that the decisions of the president of the Claims Commission are influenced by local considerations. The Department also feels that the person selected should be able to devote his entire time to the work.

STIMSON

417.00/334 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 25, 1929—3 p. m.
[Received 10:20 p. m.]

174. Department's 92, June 20, 6 p. m. In view of the seeming impossibility to create the Claims Commission at this time under the law

of December 3rd, 1926, President Moncada proposes that a temporary commission be created by Executive decree, composed of two Nicaraguan members, one Liberal and the other Conservative, to be selected by the Executive from candidates nominated by the respective parties, and one American member to be selected by the Department of State. The functions of the commission will be advisory only and are to receive and consider claims yet to be presented and prepare them for final adjudication by the Claims Commission to be created in accordance with a new law to be enacted at the next session of the Nicaraguan Congress. The American member will receive a salary of ten thousand dollars a year and his traveling expenses coming to and returning from Nicaragua. He will be paid from available funds until the Nicaraguan Congress can provide otherwise.

The decree creating the commission will contain the following provisions covering suggestions made by the Department from time to time in this connection :

1. No award of the commission will be valid unless concurred in by the American member of the commission.

2. The commission will be authorized to deal with claims arising up to the date of the reconvening of the commission.

3. The jurisdiction of the commission will be extended to include
(a) Claims for losses in the Departments of Rio Grande and Prinzapolka ;

(b) Claims by persons or companies suffering losses in all Departments where outlaws have operated, as the present law refers only to inhabitants of these departments ;

(c) All pending obligations of the Nicaraguan Government arising since October 25, 1925, as the result of the civil strife in Nicaragua ;

(d) Claims for personal injury.

If the foregoing arrangement is satisfactory to the Department, the Nicaraguan Government will draft the decree and will submit it for the Department's consideration before it is issued here.

The foregoing has been prepared in consultation with President Moncada and has received his approval. I favor the creation of the commission at this time. It can do useful work, the American member will doubtless continue on the commission to be created later, and much is gained by the acceptance now of point 1 mentioned above.

HANNA

417.00/334 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, July 2, 1929—11 a. m.

95. Legation's 174, June 25, 3 p. m. The plan contemplated by President Moncada would appear to afford a practicable method for initiating action with respect to pending claims and the Department

is now prepared to nominate the American member of the temporary commission when it shall have had the opportunity to examine the proposed decree establishing the provisional commission.

As it is important that the Conservative member of the commission shall be fully representative of the Conservative Party and presumably should be designated by the Junta Directiva, the Department would be glad to receive by telegraph an expression of your views with respect to the present organization of the party and the representative status of the Junta.

STIMSON

417.00/337

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1072

MANAGUA, July 11, 1929.

[Received July 16.]

SIR: With reference to the Department's telegram No. 95 July 2 (11 a. m.) and other communications in this connection, I have the honor to transmit herewith a copy and translation of the draft decree for the creation of a Provisional Claims Commission.⁸⁹

The decree is intended to cover all the points mentioned in my telegram No. 174 of June 25 (3 p. m.) The words "and other obligations" (*y otras obligaciones*) in Article I are intended to extend the jurisdiction of the Commission to include all pending obligations of the Nicaraguan Government arising as a result of the civil strife in Nicaragua.

Article V of the decree provides that no decision of the Commission will be valid unless it is concurred in by the American member of the Commission.

Article VIII is intended to meet the Department's desire that the jurisdiction of the Commission be extended to include claims by persons or companies suffering losses, thereby correcting a defect in the existing law which refers only to inhabitants of Nicaragua.

Article IX extends the jurisdiction of the Commission to cover claims arising "in all the territory of the Republic" (*en todo el territorio de la Republica*) thus meeting the Department's wishes in this regard. It was deemed preferable to make the decree embrace the entire territory of the Republic rather than to specify certain Departments and probably omit some district where outlaws have operated or where claims have arisen from other causes.

The last paragraph of Article IX extends the jurisdiction of the Commission to include claims for personal injury suffered by foreign citizens or subjects. Claims for personal injury to Nicaraguan citizens are omitted by the express wish of President Moncada because, in

⁸⁹ Draft not printed; but see the signed decree, p. 639.

his opinion, to include them would result in such a deluge of claims of this nature that the work of the Commission would be indeterminate and the total of such claims would be beyond the financial possibilities of Nicaragua.

Article X provides that there shall be paid to the American member, as salary and for his expenses of establishing himself and during his stay in Nicaragua, the sum to be fixed by the President of the Republic in agreement with the Department of State of the United States of America; but in no case will said sum exceed $\text{C}\$10,000$. annually. This phraseology was employed for two reasons; one, to avoid criticism of the amount paid the American member by pointing out that it is to cover both salary and expenses in Nicaragua and, two, to leave the Department free to appoint a competent person at a smaller total than $\text{C}\$10,000$. yearly if that be possible. I understand that the total amount agreed upon will be paid without requiring the American member to submit vouchers for his expenses while in Nicaragua, and that he will be paid in addition his expenses coming to and returning from Nicaragua.

Article XII reads as follows in translation:

“Claimants may not be members of the Commission. Members of the Commission may not take cognizance of the claims of their relatives within the fourth degree of blood relationship and the second degree of affinity; and when one of them is inhibited by this reason, the American member will have double vote.”

This provision is a compromise with the Conservative Party. President Moncada recently advised the Directing Boards of the Conservative and Liberal Parties that they should not nominate for a member of the Commission a person who has a claim before the Commission or who is a blood relative of a claimant in the fourth degree or in the second degree by marriage. The leaders of the Conservative Party have contended that this provision made it practically impossible to select a competent member of the Commission from that Party, and they appealed to me to present their views to President Moncada. Dr. Cuadra Pasos suggested to me yesterday that the Party be left free to select its candidates regardless of whether they or their relatives and connections have claims before the Commission, and to provide that in case such claims are presented the member interested may not vote upon them and that the American member will have a double vote for the settlement of those claims. I submitted this view to President Moncada and he immediately accepted it as modified in Article XII quoted above. I have not yet had an opportunity to communicate this to Dr. Cuadra Pasos but I feel confident it will be satisfactory to the Conservative Party. I concur in the view that the list of competent members for the Commission from either the Conservative or the

Liberal Party would be greatly reduced, and perhaps the most competent names eliminated, if all persons were barred who are related to claimants in the degrees mentioned above.

Article III states that the Nicaraguan members of the Commission will be appointed by the Executive. This is merely a repetition of a similar provision in Article II of the existing law. It leaves the Executive Power free to appoint the Nicaraguan members if that necessity should arise, but it is President Moncada's fixed purpose to appoint these members from the candidates proposed by the Directing Boards of the respective Parties.

I am sure it will be greatly appreciated here if the Department can present its views concerning the decree by telegraph at the earliest practicable date.

I have [etc.]

MATTHEW E. HANNA

417.00/336 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, July 12, 1929—3 p. m.

[Received 8:18 p. m.]

188. Department's 95, July 2, 11 a. m. The proposed decree establishing the Provisional Commission was transmitted to the Department in today's air mail.⁹⁰ If the decree is satisfactory, the Nicaraguan Government will appreciate the early arrival here of the American member of the Commission.

Doctor Cuadra Pasos told me this morning that the provisions of article 12 of the decree are satisfactory to the directing board of the Conservative Party and that it will select five candidates for the Conservative member early next week who will be representative of the party. I believe however that existing dissensions in the party will play an important role in making the selections and that consequently the responsibility of President Moncada for the ultimate choice will be increased.

The existing directing board is the same as when created as a compromise in the last presidential campaign and its character and composition are known to the Department. The Chamorro influence is probably somewhat stronger than that of the other faction. Diaz and Cuadra Pasos are thoroughly dissatisfied with the unrepresentative character of the board, even of their own partisans on it, and they are laboring for a favorable opportunity to bring about a reorganization which ordinarily would not occur until the next presidential campaign.

The party itself is rent by dissension and I cannot see that the Chamorro influence is on the wane. I am reliably informed that the

⁹⁰ See *supra*.

board will announce in a few days that the party will not participate officially in the municipal elections of this year, assigning lack of confidence in the impartiality of Dr. Roman y Reyes (see my telegram 178 of June 29, 10 a. m.)⁹¹ as the reason for the action. The real reasons however of the Cuadra Pasos faction, as stated to me, are:

(1) To avoid stirring up additional factional fights in the party at this time; and,

(2) To establish the necessity for American supervision next year and in 1932.

I may add that the Liberal Party is also in danger of a complete split between the eastern element led by the President and Dr. Carlos Morales and the western faction whose principal leaders are Leonardo Arguello and Dr. Sacasa. President Moncada seems fixed in his determination not to be dominated by the latter faction and there appears to be but little disposition to compromise. Already there is subdued talk of a possible realignment of political elements by a union temporarily at least of the older Liberals and the Cuadra Pasos Conservatives.

HANNA

417.00/338: Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, July 24, 1929—3 p. m.

[Received 4:33 p. m.]

201. My 188, July 12, 3 p. m. second paragraph. Conservative Party selected five candidates yesterday and the President told me this morning that he will appoint one of these [as] Conservative member of the Claims Commission.

HANNA

417.00/336: Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, July 27, 1929—1 p. m.

110. Legation's despatch No. 1072, July 11, and telegram No. 188, July 12, 3 p. m. The Department has examined the draft decree for the creation of a Provisional Claims Commission and perceives no objection to its provisions. In accordance with the wishes of President Moncada the Department now proposes as the American member of the Provisional Claims Commission Mr. J. S. Stanley. Mr. Stanley was for many years a member of the Philippines Customs Service and served as American member of the Mixed Claims Commission in Haiti, rendering notably efficient and satisfactory

⁹¹ *Ante*, p. 650.

service in both capacities. Mr. Stanley would be unable, however, to accept this employment for less than \$10,000 annually with traveling expenses to and from Nicaragua.

As stated in the Department's telegram No. 95 of July 2, 11 a. m., it is important that the Nicaraguan members of the Commission shall be representative of and acceptable to the two political parties, and you are directed to impress upon President Moncada the necessity for a careful selection from the lists of names submitted by the respective Directing Boards.

STIMSON

417.00/339 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, July 30, 1929—3 p. m.

[Received 6:04 p. m.]

207. Department's telegram number 110, July 27, 1 p. m. The Minister for Foreign Affairs has notified me formally that the Nicaraguan Legation will appoint Mr. Stanley American member of the Provisional Claims Commission at a salary of ten thousand dollars annually and expenses going to and returning from Nicaragua.

The decree creating the Commission and naming its members will be published soon.⁹² This Government would appreciate information concerning the probable date of Mr. Stanley's arrival here.

HANNA

417.00/342

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1100

MANAGUA, August 2, 1929.

[Received August 7.]

SIR: With reference to the Legation's despatch No. 1072 of July 11, 1929, and to its telegram No. 207 of July 30, 3 p. m., I have the honor to transmit herewith copies of the Presidential Decree of July 30, 1929, establishing a Provisional Claims Commission, as published in *La Gaceta* of July 31, 1929, as well as a copy and translation of the Foreign Office's note No. 157 of July 31, 1929,⁹³ transcribing a Presidential Decree dated July 31, 1929, appointing Mr. J. S. Stanley President of the Commission.

Paragraph sixteen of the draft submitted to the Department is omitted in the published decree. This paragraph provided for the naming of the members within the decree itself but it was omitted principally because the Liberal party at the time the decree was

⁹² See *La Gaceta*, No. 204, September 11, 1929, for presidential decrees naming J. S. Stanley, president of the Provisional Claims Commission, and Ignacio Suarez, Enoc Aguado and Mariano Arguello V., Conservative member, Liberal member, and first lawyer, respectively (417.00/365).

⁹³ Note not printed.

published had not nominated its candidates for the Commission. The salary of the secretary of the Commission has been increased from one hundred cordobas to two hundred cordobas monthly. The above are the only two changes from the draft decree submitted to the Department. In the second line of Paragraph two there is a typographical error. "5 de diciembre" should obviously read "3 de diciembre".

I have [etc.]

MATTHEW E. HANNA

[Enclosure—Translation ⁶⁴]

Decree of July 30, 1929, Establishing a Provisional Claims Commission

THE PRESIDENT OF THE REPUBLIC,

In use of the general powers conferred on him by articles 190 and 111, No. 36 of the Constitution, and considering:

That the Claims Commission created by the law of December 5 [3], 1926, cannot be reconvened, among other reasons because the appointee of the Department of State of the United States of America on the High Commission is prevented from forming part of that tribunal because he is in charge of the office of Collector General of Customs, and because the work of said tribunal requires his entire attention to the exclusion of all other employment or office;

That it is indispensable to delay no further in receiving and studying the claims against the State, originating during the last civil war, in order to establish their total amount and consider the form of payment and the funds available for that purpose;

That in order to give foreign claimants the best guarantee of impartiality and justice and to carry out the evident intention of the law of December 3, 1926, referred to, the presence of an American judge on the tribunal who will concur with his vote in rendering decisions is necessary; taking advantage of the assistance offered Nicaragua by the Government of the United States of America,

DECREES:

ARTICLE 1. There is established in the capital of the Republic a Provisional Claims Tribunal or Commission which shall receive and take cognizance of all claims for exactions, requisitions, war damages and other obligations not liquidated and pending against the Government of Nicaragua as a consequence of the civil war, from October 25, 1925, until the date when the Executive shall declare the country officially at peace.

ARTICLE 2. The claims presented to the Commission created by the law of December 3, 1926, shall be received and passed upon by the

⁶⁴ Translation supplied by the editor.

Provisional Commission without necessity of a second presentation by the interested parties.

ARTICLE 3. The Provisional Claims Commission shall be made up of three members: One from the Conservative Party, another from the Nationalist Liberal Party, and another who shall act as President and who shall be an American citizen named by the President of the Republic, after nomination by the Department of State of the United States of America. The President of the Republic will name the Nicaraguan members.

The Commission shall meet not later than 60 days following the publication of this decree in the *Diario Oficial*.

ARTICLE 4. The Provisional Commission shall cease in its functions as soon as the Congress of the Republic enacts a new organic law of the Claims Commission; but it shall not have the right to continue functioning longer than 18 months from the date of its first meeting. Within this time all the claims of which cognizance has been taken should be passed upon.

ARTICLE 5. The decisions of the Commission shall be made by the three members, each one having the obligation to give and explain his respective vote. The tribunal shall decide by a majority vote, but no decision shall be valid unless it is concurred in by the American member of the Commission.

ARTICLE 6. For the study and decision of claims, the Commission shall proceed with the powers of arbitrators or friendly mediators.

ARTICLE 7. The Commission is authorized to formulate its rules and regulations of procedure or to adopt those of the Commission created by the law of December 3, 1926. The said rules shall be published in the *Diario Oficial* and the tribunal shall begin to function 10 days after their publication. The claims shall be presented according to the requirements of the rules, without prejudice to the requirements of article 2 of this decree.

ARTICLE 8. Nicaraguan citizens and juridical persons, and foreign societies or corporations and citizens or subjects, shall have equal rights, without any exception, to present themselves before the Provisional Commission, whether they be inhabitants of the territory of the Republic or not. Claimants who do not present their claims within six months from the date on which the Executive shall have officially declared the peace, shall not have the right to do so later and shall lose the right to all judicial and extrajudicial indemnification.

ARTICLE 9. There shall be considered among the claims against the State exactions, requisitions and war damages caused by both sides in the last civil war, as well as those caused by acts of banditry in all the territory of the Republic. But the benefits of this decree shall

not accrue to foreign societies, citizens or subjects who have taken part in the civil war or in acts of banditry.

The Commission is also authorized to receive and pass upon, within the period established, claims for personal injuries which foreign citizens or subjects may have suffered, provided they have not taken part directly or indirectly in the civil war or acts of banditry.

ARTICLE 10. The Nicaraguan members of the tribunal shall receive a salary of 300 cordobas monthly; and there shall be paid to the American member, as salary and for his expenses of installing himself and of his stay in Nicaragua, the sum to be fixed by the President of the Republic in agreement with the Department of State of the United States of America; but in no case shall the said sum exceed 10,000 cordobas annually.

ARTICLE 11. The secretary of the Commission shall be a Nicaraguan, named by it, and he shall receive a monthly salary of 200 cordobas. The Commission shall have available 4,000 cordobas annually for office expenses and investigations, in the form prescribed in the respective rules.

ARTICLE 12. Claimants shall not have the right to be members of the Commission. Members of the Commission shall not have the right to take cognizance of the claims of their relatives within the fourth degree of consanguinity and the second degree of affinity; and when one of them is inhibited for this reason, the American member shall have double vote.

ARTICLE 13. All members of the tribunal shall remain in the capital on all working days without absenting themselves therefrom except for justifiable cause. In case any member absents himself persistently and without good cause, or for any reason shall be incapacitated for the fulfillment of his duties, the members who attend shall notify the Executive power to this effect, and the latter will proceed immediately to name the person to replace him.

ARTICLE 14. The Treasury shall be represented before the tribunal by one or more lawyers named by the President of the Republic, and these lawyers shall be given hearings and opportunity to examine documents under the law. They shall receive a salary of 150 cordobas monthly each.

ARTICLE 15. The decisions of the Provisional Commission created by the present decree shall not constitute a judgment or obligation of the State until the Congress of the Republic so directs upon enacting the new organic law of the Claims Commission.

ARTICLE 16. The present decree shall go into effect upon its publication in the *Diario Oficial*.

Done at the Casa Presidencial, in the city of Managua, on the 30th day of July, 1929. J. M. MONCADA—The Minister of Hacienda—ANTONIO BARBERENA.

417.00/342

The Secretary of State to the Chargé in Nicaragua (Hanna)

No. 553

WASHINGTON, August 26, 1929.

SIR: The Department refers to the Legation's despatch No. 1100, of August 2, 1929, enclosing a copy of the Presidential decree of July 30, 1929, providing for the establishment of a Provisional Claims Commission to adjudicate claims of American nationals against Nicaragua growing out of the Civil War from October 25, 1925, until the date on which peace is officially declared, together with a copy and translation of the Foreign Office's note No. 157, of July 31, 1929,⁹⁵ transcribing a Presidential decree dated July 31, 1929, appointing The Honorable J. S. Stanley as President of the Commission.

Judge Stanley has been notified of his appointment and will proceed to Nicaragua on the steamship *El Salvador*, sailing from New York on September 5.

It will be noted that the decree of July 30, 1929, empowers the Commission to formulate regulations, or to adopt those framed by the Commission created by the law of December 3, 1926; requires that claims must be presented to the Commission within six months from the official declaration of peace, and that claims not filed within this period are to be barred.

In order that the Department may notify American claimants in the United States, it is desired that you advise the Department promptly by telegraph, to be confirmed by mail, when peace is officially declared in Nicaragua, and, in addition, that you forward copies of the regulations as soon as they are adopted by the Commission.⁹⁶

The Department desires that the Presidential decree of July 30, 1929, information of the date on which peace is officially declared, and the regulations adopted by the Commission, be given the widest possible circulation among American citizens and organizations in Nicaragua.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

⁹⁵ Note not printed.

⁹⁶ See Comisión Provisional de Reclamaciones, *Ley Creadora, Decreto de Nombramientos y Reglas de Procedimientos* (Managua, Imprenta Nacional, 1929), copies of which were transmitted to the Department in despatch No. 1228, November 15, 1929 (not printed). (417.00/369)

417.00/364

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1187

MANAGUA, October 11, 1929.

[Received October 25.]

SIR: I have the honor to inform the Department that Mr. J. S. Stanley, American Member and President of the Provisional Claims Commission, arrived at Managua on October 5. Mr. Stanley took his oath of office on October 8 and the Commission held its first meeting on October 9, 1929.

I have [etc.]

MATTHEW E. HANNA

417.00/366

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1210

MANAGUA, October 29, 1929.

[Received November 4.]

SIR: I have the honor to transmit herewith copies with translations of a letter addressed to the Minister of Hacienda by the Provisional Claims Commission dated October 14, 1929, and the reply of the Minister of Hacienda dated October 16, 1929.⁹⁷ It will be noted that the Minister of Hacienda, in answering the Commission's inquiry, has taken advantage of the opportunity thus presented to assume what would appear to be unwarranted interference in matters solely within the jurisdiction of the Commission itself. The Commission, in consulting the Nicaraguan Government in this connection, may have given him some justification for expressing his views as he did.

This exchange of letters was brought to my attention a few days ago by Mr. J. S. Stanley, American member of the Commission, who sought my advice in the matter. After discussing the subject we reached the conclusion that the Commission, in view of its international character and the international agreement in which it finds its authority, should be free to interpret the decree creating it and defining its powers and limitations, and that it could not permit the Nicaraguan Government to instruct it in the manner set forth in the letter of the Minister of Hacienda.

Mr. Stanley subsequently informed me that he had discussed the matter with Dr. Enoc Aguado, one of the Nicaraguan members of the Commission, and that he concurred in the view set forth above. This was confirmed later on by Dr. Aguado who called upon me for that purpose. Dr. Aguado was positive in his acceptance of this view of the matter and said that he had reason to believe that it was also President Moncada's view. This was also confirmed to me per-

⁹⁷ Neither printed.

sonally by President Moncada when I saw him this morning. He did not fail to point out, however, that the question was raised, not by the Nicaraguan Government, but by the Commission in asking the Government for its opinion. The President said that he believed there would be no further misunderstanding on this point. I am not so sure that the Minister of Hacienda will drop the subject thus lightly and the Department may desire to give me instruction to guide me should the subject come up again.

Both Mr. Stanley and Dr. Aguado are dissatisfied with the indefiniteness of the period during which claims may be presented. It will be noted that the Minister of Hacienda is seemingly of the opinion that a state of peace, within the meaning of the Claims Convention, exists in at least a portion of the republic. I understand that the Commission will disregard this opinion and act on the assumption that a state of peace has not been declared in any part of the republic, which assumption appears to be in accord with the facts. Consequently, claims may be submitted for a period of six months after a date which has not yet been determined, and the Commission finds this uncertainty very objectionable. They now have this matter under consideration and consulted me as to how it could be corrected. I expressed the opinion that any correction which involved a modification of the Convention would necessarily have to receive the approval of both governments. I understand that the Commission is now considering the presentation of a proposal for some such modification. I reminded the Commission, however, that curtailing the period within which claims could be submitted arising from future acts in regions still overrun by bandits would mean that the work of the Commission might not be as complete as was contemplated when the Convention was entered into.

Dr. Aguado, as well as Mr. Stanley, sympathizes with the desire of the Nicaraguan Government as expressed in the letter of the Minister of Hacienda to eliminate the claims for back pay of soldiers or civilian employees not covered by the budget who may have been in the service of the Nicaraguan Government as a consequence of the war. Dr. Aguado is of the opinion, nevertheless, that, in view of the comprehensive wording of the Convention, it would be difficult to interpret it in such manner as to omit these claims, because he thinks the clear intention of the Convention is to include them. Consequently, it would seem that this point might also be cleared up in a supplemental informal agreement between the two governments.

I have [etc.]

MATTHEW E. HANNA

417.00/366

The Secretary of State to the Chargé in Nicaragua (Hanna)

No. 593

WASHINGTON, November 14, 1929.

SIR: Reference is made to the Legation's despatch No. 1210, dated October 29, 1929, concerning the Provisional Claims Commission and its relationship to the Government of Nicaragua.

The Department has observed that it apparently is believed by the Legation as well as by the American member of the Commission that the Provisional Claims Commission has been established through a "Claims Convention" and that it enjoys therefore an "international character" by virtue of which it should have unrestricted independence of action and be free from control by the Nicaraguan Government.

Although the establishment of a Claims Commission was contemplated by the so-called Tipitapa Agreements as a necessary step to be taken by Nicaragua in order to place its economic affairs in order and maintain its domestic and external credit, the actual establishment of the present Commission has resulted from the Legislative Decree of December 3, 1926, and the Presidential Decree of July 30, 1929. Its status and jurisdiction are therefore determined solely by Nicaraguan legislation, and it does not appear inappropriate for the Commission to consult with the Nicaraguan Government regarding matters of procedure and policy. It is obvious that the Commission should be completely independent in the actual decision of cases and in any other matters which might affect the justice and impartiality of its awards.

The foregoing is not to be construed, however, as indicating that the operations of the Provisional Claims Commission have no international character or that they are not a matter in which this Government is keenly interested. The Government of the United States, in view of the several claims of considerable importance that undoubtedly will be submitted to the Commission for consideration on behalf of injured American interests, as well as similar claims on the part of foreigners, takes a keen interest in the Provisional Claims Commission and is most anxious that it shall initiate its labors at an early date and carry them forward as speedily as possible and with the greatest possible freedom. It is hoped, therefore, that you will lend such assistance whenever possible and appropriate as will serve to facilitate the work of the Commission.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

[Legislation creating a permanent Claims Commission was passed by the Congress and signed by President Moncada on February 6, 1930—*La Gaceta*, No. 34, February 10, 1930 (417.00/380).]

ASSISTANCE BY THE UNITED STATES IN MAKING SURVEYS FOR
ROADS IN NICARAGUA

817.00/6341: Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 13, 1929—noon.

[Received 2:10 p. m.]

162. Supplementing my 160, June 12, noon.⁹⁸ There is a strong desire among Nicaraguans for the construction of good roads and the impression is increasing, especially among leading men in the bandit infested region, that the construction of roads in these regions if continued for a sufficient period of time would result in the elimination of banditry. This impression is also growing among many of President Moncada's advisers and I believe that he will offer no serious objection to the plan other than the difficulties of finding funds to carry it out. I believe, however, that the funds may be obtained by a readjustment of existing expenditures and plans for public improvements in other directions.

HANNA

817.00/6342: Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 13, 1929—5 p. m.

[Received 8:17 p. m.]

164. My June 13, noon. Beaulac⁹⁹ has just returned from three days' visit to the Matagalpa and Jinotega districts and says that the sentiment there is that road construction in those areas is the logical corrective measure for the bandit [situation?] as it exists at this time. I encountered a similar sentiment in Ocotal when I recently spent two days in that region. Marine officers familiar with the conditions are among the strongest advocates of this plan in all the regions mentioned above.

HANNA

⁹⁸ *Ante*, p. 575.

⁹⁹ Willard L. Beaulac, Second Secretary of Legation.

817.00/6341 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, June 14, 1929—4 p. m.

89. Legation's 160, June 12, noon;¹ 162, June 13, noon; and 164, June 13, 5 p. m. The Department regards with interest the proposal to construct roads in the bandit areas but before authorizing you to discuss the subject with the Nicaraguan Government desires to receive from you a report describing the roads it is contemplated to build, the number of persons who would be employed, and related features. In this connection you are advised that it is the Department's opinion that any road construction undertaken should contemplate the permanent needs and economic advancement of the Republic as well as immediate military advantage.

CLARK

817.00/6344 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 16, 1929—4 p. m.

[Received 9:35 p. m.]

167. Department's 89, June 14, 4 p. m. Of the many factors retarding economic developments in Nicaragua, in my opinion, the existing state of banditry and the deplorable condition of the public roads are two of the most serious. Good roads and banditry are antagonistic. There can be no permanent economic advancement here until banditry is eliminated and an enduring condition of peace and public order assured, and when that is obtained the existing outcry for better roads will increase in all sections of the Republic. The intelligent expenditure of any reasonable sum on roads at this time would be money wisely spent. Good roads are needed for economic reasons alone in almost every section of this country and, while opinions may differ as to where they are needed most, every such road would meet an economic need of the Republic.

As a matter of fact among the sections admittedly in the greatest need of roads are the districts about Matagalpa, Jinotega and Ocotal bordering upon the regions occupied by bandits, and work upon the important highways leading out of those towns, although it be in the immediate neighborhood of the towns, will act as a magnet to draw men from even the more remote bandit areas. At least that is what I am told by men who know the habits of the natives and whose opinion should be sound. For every \$25,000 monthly set aside for this

¹ *Ante*, p. 575.

work it should be possible to employ at least 1,000 men at 60 cents per day and pay all incidentals necessary for good road construction under the conditions in this country. Experience will show whether this amount will have to be increased to accomplish the purpose in view. If, as I believe, money spent in this manner will materially assist in putting an end to banditry this Government may wisely spend any amount within its possibilities for this purpose.

It will be of material help if the Marine commander here can begin construction at the same time with Marine funds as recommended in my previous communications on this subject. I am informed that bull cart transportation alone for the Marine command up to the end of last year was approximately \$700,000 which according to Marine estimates was ten times what the cost would have been for truck transportation over good roads. The transportation of freight and passengers by five Fokker airplanes, made necessary by the absence of good roads, and transportation by pack animals are not included in this amount.

This plan if adopted will in any event serve an important and necessary economic purpose in improving this country's roads. To be of material assistance in eliminating banditry it should be systematically followed for at least six months, when the coffee harvest season may afford some relief. I believe this Government will accept the idea but will need advice and assistance in executing it completely and intelligently. The Department may deem this an appropriate opportunity to offer this Government the services of two or more young engineer officers of the Navy or Army to assist in the work. They could be attached to the guardia and given the status of a Nicaraguan officer if that should appear desirable. It is expected that this Government will spend large sums on road construction during the next few years and it will badly need technical control over such construction if the money is not to be wasted in unintelligent work as at present. Nicaragua needs American technical assistance for the construction of roads just as badly as Managua needed such assistance for the construction of its streets. I believe President Moncada might be glad to accept such assistance if the Department could authorize me to tender it.

HANNA

817.154/38 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, June 20, 1929—5 p. m.

91. Legation's 167, June 16, 4 p. m. The Department perceives no objection to a discussion by you with President Moncada of the road

building plan but does not desire to have you urge the adoption of the plan by him. Would not the rainy season prevent any road building activities for some time yet? The Department is informed by the Navy Department that no funds are available for expenditure in Nicaragua for road building by the Marine forces there.

Should President Moncada evince interest in the plan and request that American Government engineers be detailed for service in that connection, the Department will be glad to give consideration to the matter.

STIMSON

817.154/40 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 28, 1929—4 p. m.
[Received 7:54 p. m.]

176. Department's 91, June 20, 5 p. m. President Moncada intends to start the road building program with the least possible delay and has asked me to request that three American Government engineers be detailed for service in that connection. He has also requested General Williams² to cooperate with the services of qualified members of his command. I have conferred with General Williams and he believes that three officers of the civil engineer corps of the Navy should be attached to the Brigade staff or the Guardia Nacional to take charge of this work and says that officers qualified to assist them can be detailed from Marine personnel now in Nicaragua. I concur.

HANNA

817.154/43 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, July 9, 1929—5 p. m.
[Received 7:25 p. m.]

183. My 176, June 28, 4 p. m. General Williams has a telegram from the Navy Department inquiring concerning the length of time the engineers will be needed and the magnitude of the work they will supervise. I have just seen President Moncada and he said the engineers will be needed for at least six months and that he proposes to spend at least \$25,000 monthly on road construction in the bandit area. He said that he would also greatly appreciate the assistance of the engineers in conjunction with other public works now under construction or projected.

HANNA

² Brigadier General Dion Williams, U. S. M. C., Commander of the Second Brigade.

817.154/40 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, July 24, 1929—5 p. m.

107. Legation's 176, June 28, 4 p. m. The Department has consulted the Departments of War, Navy, Agriculture, and Commerce with respect to President Moncada's desire to obtain the services of American Government engineers to assist the Nicaraguan Government in its road building program.

No reply has yet been received from the Department of Agriculture. The Department of Commerce states that while it does not have available for assignment any engineers especially qualified in road building, it would be in a position to suggest the names of one or more engineers with experience in ground and air survey work in connection with topographic map making. The Navy Department states that it has made arrangements for the assignment of Marine officers or officers of the Civil Engineer Corps of the Navy to duty in Nicaragua for this purpose. The War Department states that two engineer officers can be detailed to accompany the troops which will make the Canal survey under the supervision of Major Dan I. Sultan if desired.³

You may inform President Moncada of the foregoing, pointing out that civilian engineers presumably would have to be employed under salary and transportation contracts, whereas the Army or Navy engineers could be assigned to duty in Nicaragua with the Canal survey forces or the Marine or Guardia Nacional forces at less expense to the Government of Nicaragua. In view of the extensive topographical survey work which presumably will be conducted by Major Sultan's Canal survey forces, it might perhaps be most effective and economical for the Government of Nicaragua to entrust this work to Major Sultan.

STIMSON

817.154/50 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, July 26, 1929—noon.

[Received 4:05 p. m.]

204. Department's 107, July 24, 5 p. m. President Moncada says he will be grateful for either Army or Navy engineers. Of the men available he would of course like those best qualified for the special work he has in mind.

HANNA

³ For correspondence regarding the canal survey, see pp. 703 ff.

817.154/50 : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, August 1, 1929—6 p. m.

115. Legation's 204, July 26, noon, and Department's 107, July 24, 5 p. m. Navy Department reports that it is prepared to assign Commander Ralph M. Warfield and Lieutenant Rufus C. Harding to duty under the commander of the Guardia Nacional for road construction work if desired. Commander Warfield is a graduate from Worcester Polytechnic Institute, is a civil engineer in the Navy and has served in engineering capacities in the United States, Guam, the Dominican Republic and Panama, in connection with which his services embraced the construction of numerous extensive and important works and highways. Lieutenant Harding is a graduate from the University of Arkansas, is a civil engineer in the Navy and has had engineering experience in the United States and Haiti. His experience embraces the construction and maintenance of roads, bridges and other important public works.

The War Department reports that Major Sultan who would have general supervision over this road work if entrusted to the Canal Survey Expedition, has been engaged in engineering work connected with the duties of the Corps of Engineers for twenty-two years embracing in that period all phases of road building and other public activities. Major Charles P. Gross, who would be assigned to duty under him, has studied road building at Cornell and at the Engineer's School and has had several years practical engineering experience.

In view of the extensive cooperation by the Navy Department in Nicaragua and the existence there of the organizations through which most effective road building aid probably could be rendered it is suggested that perhaps President Moncada may prefer to accept the services of the two Navy engineers referred to.

STIMSON

817.154/62a : Telegram

The Secretary of State to the Chargé in Nicaragua (Hanna)

[Paraphrase]

WASHINGTON, September 11, 1929—11 a. m.

126. In view of the existing financial situation in Nicaragua and the relations between the Government of Nicaragua, the Banco Nacional de Nicaragua, and the railroad management,⁴ the Department desires that Commander Warfield should not propose any large road construction program to the President without first giving the

⁴ See pp. 651 ff.

Department an opportunity to consider it and particularly to consider the manner in which funds are to be obtained. The Department feels that it will be to the best interest of Nicaragua if Commander Warfield will study first the general needs of Nicaragua either for railroad or road construction and the routes thereof and submit a preliminary report as soon as possible.

The Department has been informed that the Finance Minister of Nicaragua recently asked the board of directors of the railroad to declare a large dividend to be used for road construction and that the American directors do not feel that the railroad can properly do so. It is, of course, important that further friction between the Government of Nicaragua and the bankers over matters of this kind should if possible be avoided. It is suggested, therefore, that the question of the extent of the program and the manner in which funds shall be provided should be dealt with at the conference proposed by the President of Nicaragua as reported in your telegram No. 222, September 5, 4 p. m.⁵ I have accepted suggestion of the President regarding this conference in a personal letter which was forwarded by air mail September tenth.

STIMSON

817.154/64 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, September 30, 1929—11 a. m.

[Received 2:15 p. m.]

239. Commander Warfield has just returned from a prolonged inspection trip and I have discussed with him the matter presented in the Department's telegram number 126, September 11, 11 a. m. He will be guided by the Department's wishes in this connection and I expect to forward his preliminary report in time for its consideration at the approaching conference of bankers. In the absence of specific instructions I have not suggested to President Moncada that the road construction program, and the manner in which funds shall be provided for it, should be dealt with at the conference.

HANNA

317.154/66

The Chargé in Nicaragua (Hanna) to the Secretary of State

No. 1180

MANAGUA, October 5, 1929.

[Received October 9.]

SIR: With reference to my telegram No. 239, September 30 (11 a. m.), concerning the Department's wishes with respect to the attitude of Commander Warfield in the matter of a road construction program in

⁵ *Ante*, p. 654.

Nicaragua, I have the honor to transmit herewith a copy of Commander Warfield's preliminary report which he has submitted to the Legation in response to the Department's wishes.

I have [etc.]

MATTHEW E. HANNA

[Enclosure—Extract]

*Commander Ralph M. Warfield, G. N., to the American Chargé
in Nicaragua (Hanna)*

Roads are better suited to Nicaragua's present needs than additional railroads. The hauls are short and imports and exports can be economically handled over roadways. The present Ferrocarril del Pacifico de Nicaragua extends from Granada on Lake Nicaragua to Corinto, a seaport on the west coast via Managua, León and Chinandega. This serves the area west of the Lakes and with roads from Managua to Matagalpa and Jinotega, and a road from Sébaco to Ocotal via Estelí most of the population and the best developed agricultural lands will be served and much undeveloped agricultural land made of value.

The eastern section of Nicaragua is sparsely settled and future development can be made to this area as population increases to justify it.

Nicaragua is primarily an agricultural country and the development of its rich coffee lands and other fertile area in agricultural production is essential to prosperity. Roads are necessary to provide for the transportation of these agricultural products and the imports and supplies required in their production.

Sufficient engineering data has not been obtained to provide the basis for an accurate estimate of the cost of the road construction, but it is believed that on the route from Sébaco to Ocotal recommended, construction of macadam road eighteen feet wide with three feet shoulders, culverts and proper ditches, can be provided for (twelve thousand to fifteen thousand per mile) \$12,000 to \$15,000 per mile including all bridges except the one over the Coco River near Ocotal.

RALPH M. WARFIELD

NICARAGUAN CANAL SURVEY

817.812/473 : Telegram

The Acting Secretary of State to the Minister in Costa Rica (Davis)

WASHINGTON, June 12, 1929—6 p. m.

21. The War Department has notified the Department⁶ that the President has authorized the dispatch to Nicaragua of a battalion

⁶ In letter of June 8, 1929; not printed.

of Engineer troops to make the investigation and survey for the purpose of ascertaining the practicability and the approximate cost of a canal route through Nicaragua provided for in Public Resolution No. 99 of the Seventieth Congress.⁷

You are directed so to advise the Costa Rican Government and request its consent for parties of these Engineer troops to enter Costa Rican territory at the places and times they may desire for the purpose of compiling the requisite information and data with reference to the proposed canal route, such as rainfall, stream flows, et cetera.

CLARK

817.812/473 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Hanna)

WASHINGTON, June 12, 1929—6 p. m.

88. The War Department has notified the Department that the President has authorized the dispatch to Nicaragua of a battalion of Engineer troops to make the investigation and survey for the purpose of ascertaining the practicability and the approximate cost of a canal route through Nicaragua provided for in Public Resolution No. 99 of the Seventieth Congress.

You are directed so to advise the Nicaraguan Government requesting its consent that these Engineer troops may take such stations as they may choose and conduct such operations as may be necessary to serve the purpose contemplated. Please report results by telegraph.

CLARK

817.812/475 : Telegram

The Chargé in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 13, 1929—4 p. m.

[Received 6:47 p. m.]

163. Department's number 88, June 12, 6 p. m. I have advised the Nicaraguan Government as instructed and now have the reply of the Minister for Foreign Affairs as follows:

"By instruction of the President, I am pleased to inform you that my Government sees with the most justified pleasure the realization of the preliminary studies of a work which, if executed, would mean for Nicaragua the assurance of a happy and brilliant future; and that consequently, in the fulfillment of a patriotic duty, grants the requested permission in the most ample form."

The Minister for Foreign Affairs requests that this exchange of telegrams be made public in Washington and Managua at the same time.⁸

HANNA

⁷ Public Res. 99, 70th Cong., 2d sess., S. J. Res. 117, approved by Congress, March 2, 1929, 45 Stat. 1539.

⁸ See Department of State press releases, June 14, 1929.

817.812/478 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSÉ, June 19, 1929—5 p. m.

[Received June 20—12:32 a. m.]

43. Department's telegram 21, June 12, 6 p. m. The Costa Rican Minister for Foreign Affairs has replied as follows to my note requesting consent to a proposed survey:

"I am pleased to state that my Government has no objection to the permission requested and for that reason is disposed to grant it."

Full report by mail.

DAVIS

[“Under the command of Maj. Dan I. Sultan, of the Engineer Corps of the United States Army, field work on the survey of the Nicaraguan route began on August 29, 1929, and, except for a continuation of the hydrographic and meteorological work, was finished before July 1, 1931.”—*The United States and Nicaragua, a Survey of the Relations from 1909 to 1932*, page 113.

Other documents concerning the canal survey are printed in House Document No. 139, 72d Cong., 1st sess.: *United States Army Inter-oceanic Canal Board*.]

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 934 ff.)

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 975 ff.)

NORWAY

ARBITRATION TREATY BETWEEN THE UNITED STATES AND NORWAY, SIGNED FEBRUARY 20, 1929

711.5712A/4 : Telegram

The Secretary of State to the Minister in Norway (Swenson)

WASHINGTON, March 10, 1928—4 p. m.

1. Department handed Norwegian Minister today a draft of a proposed treaty of arbitration between the United States and Norway.¹ The provisions of the draft operate to extend the policy of arbitration enunciated in the Root Treaty of April 4, 1908.² The language of the preamble and of the articles covering arbitration is identical in effect with that employed in the draft arbitration treaties recently submitted to the French, British, Italian and Japanese Governments.³

Text of proposed treaty will be forwarded in next pouch.

KELLOGG

711.5712A/6

The Norwegian Minister (Bachke) to the Secretary of State

WASHINGTON, April 27, 1928.

MR. SECRETARY OF STATE: I have had the honor to receive Your Excellency's note, dated March 10th,⁴ transmitting as a basis for negotiation a draft of a proposed treaty of arbitration between the Kingdom of Norway and the United States of America, to take the place of the present treaty of arbitration between the two countries signed at Washington, April 4th 1908 and expiring by limitation on June 24th, 1928.

Having submitted to my Government the said draft I have now been instructed to inform Your Excellency that the Norwegian Government, equally desirous of promoting the friendly relations between the people of the two countries and of advancing the cause of arbitration and the pacific settlement of international disputes, has given the most careful consideration to the proposition of Your Excellency. My Government, however, has found that a prolongation of

¹ Draft not printed.

² *Foreign Relations*, 1908, p. 663.

³ See *ibid.*, 1928, vol. II, France, p. 810; Great Britain, p. 945; vol. III, Italy, p. 102; Japan, p. 135.

⁴ Not printed.

the existing treaty for a further period of five years would be more acceptable to it, with the following modifications to be introduced in the present text of the treaty, viz that the words in article I: "July 29, 1899" be replaced by the words "October 18, 1907" and that the words "do not affect the vital interests, the independence or the honor of the two contracting States and" in the same article be deleted. Consequently, the Norwegian Government would prefer to negotiate on the base of upholding the treaty of 1908 and it wants me to express the hope that the Government of the United States of America could see its way to accept the extension of the existing treaty of arbitration with the modifications suggested.

Please accept [etc.]

H. H. BACHKE

711.5712A/7

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, May 24, 1928.

SIR: I have the honor to acknowledge the receipt of your note of April 27, 1928, in which you state that the draft treaty of arbitration which was transmitted to you in my communication of March 10, 1928, has had the attention of the Norwegian Government, which now submits an alternative proposal.

As you are, of course, aware, the Government of the United States has recently proposed to no fewer than twenty-seven countries the conclusion of treaties in all respects similar to the one communicated to your Government. Three of these countries, France, Germany and Italy, have signed such treaties with the United States and other countries have signified their willingness to accept them. I have not failed to give due consideration to the proposal of your Government, but I am definitely of the opinion that the Government of the United States should maintain substantial uniformity in the agreements of this character which it enters into with other countries at this time. Accordingly, I entertain the hope that the Government of Norway may, on reconsideration, find itself in a position to accept the treaty in the form proposed.

Accept [etc.]

FRANK B. KELLOGG

711.5712A/9

The Norwegian Minister (Bachke) to the Secretary of State

WHITE SULPHUR SPRINGS, WEST VIRGINIA, July 2, 1928.

[Received July 3.]

MR. SECRETARY OF STATE: I have had the honor to receive Your Excellency's note of May 24, 1928, in which you have informed me, that the Government of the United States of America can not accept the Norwegian Government's proposal of a prolongation (with certain

modifications) of the treaty of arbitration of 1908 for a further period of five years.

My Government, having duly considered the contents of your said note, have instructed me to inform you as follows:

The chief objection entertained by the Norwegian Government to the draft treaty, transmitted with your communication of March 10, 1928, is, that the draft defines "differences of a legal nature" in a less satisfactory manner than the treaty of 1908.

The treaty of 1908 states in article 1, that "differences which may arise of a legal nature or relating to the interpretation of Treaties" shall be referred to the Permanent Court of Arbitration. This point corresponds to the first part of article 1 in the American draft, which prescribes arbitration for "differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise".

To the above provision the Norwegian Government have nothing in particular to remark. But it is considered a disadvantage, that the American draft, in contrast to the treaty of 1908, further provides, that a party can only insist on arbitration in cases of differences "which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity". Thereby each party is given a further opportunity of declaring any concrete dispute to be outside the scope of the treaty. It is true that in a case of a concrete difference no arbitration can take place, neither according to the old nor to the new treaty, without the advice and consent of the Senate. But this fact does not make it without importance how the treaty defines the general obligation to submit differences to arbitration.

The Norwegian Government can, however, in principle, accept the American draft treaty and are ready to enter into negotiation with a view to the conclusion of a new treaty, based upon the said draft. The Government would, however, in order to make the treaty still clearer, venture to suggest, that the following words in article 1: "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, June 24, 1914",⁵ are left out. Such an omission would serve to remove any possible doubt as to the fact that each party has a right to insist on arbitration in a case of a difference of a legal nature without the special commission of investigation first having necessarily dealt with the case;—which, in fact, is what the draft intends to express. It is quite superfluous to add the words, quoted above, in order to make clear that the parties, if they agree thereto, may submit even a difference of a legal nature to the commission of investigation.

Please accept [etc.]

H. H. ВАСИЛЕ

⁵ *Foreign Relations*, 1914, p. 971.

711.5712A/12

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, November 26, 1928.

SIR: I was pleased to be informed by your note of July 2, 1928, that your Government can accept, in principle, the draft treaty of arbitration proposed by my note of March 10, 1928.

In reference to the view expressed by your Government that the draft defines the matters which would be subject to arbitration thereunder in a less satisfactory manner than the matters subject to arbitration were defined in the Treaty of 1908, I have to say that this Government considers that the term "differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise" is fully as broad as the term "differences of a legal nature", and that in view of the narrower scope of the exceptions made in the draft now under consideration as compared with the exceptions under the treaty of 1908, the new draft is an advance over the former treaty.

In respect of the view expressed in your note that the definition "which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity" affords a further opportunity to the Governments of declaring any concrete dispute to be outside the scope of the treaty, I may say that I fail to see how these words, if properly construed, would afford such an opportunity. This Government regards the provision as being a very broad one. That it is acceptable to other Governments is shown by the fact that within the past nine months eleven countries have signed with this Government arbitration treaties containing it.

Your Government proposed striking from Article I of the proposed treaty the words "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, June 24, 1914", on the grounds that such an omission would serve to remove any doubt that each party has a right to insist on arbitration in a case of a difference of a legal nature and that the words are superfluous in order to make clear that the parties if they agree thereto may submit even a difference of a legal nature to the commission of investigation.

If the words "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, June 24, 1914," be not included in the arbitration treaty there would be no indication in either the treaty of 1914 or the arbitration treaty that the two Governments would be disposed, if occasion should arise, to consider the submission of questions embraced in the latter to a commission of conciliation for investigation and report. The words which your Government asked

to have struck out, are, therefore, not regarded by this Government as being superfluous since they indicate that the two Governments may, notwithstanding the agreement to arbitrate contained in the new treaty, submit any particular question of a legal nature to the commission of conciliation. This Government does not, however, construe the words so as to obligate the Parties to such procedure. I should be glad, therefore, if your Government may see its way not to insist upon the omission of the words.

I trust that the foregoing explanations will meet with the acceptance of your Government and that I may have the opportunity of signing the treaty with you.

Accept [etc.]

FRANK B. KELLOGG

711.5712A/13

The Norwegian Minister (Bachke) to the Secretary of State

WASHINGTON, January 4, 1929.

[Received January 5.]

MR. SECRETARY OF STATE: Having brought to the attention of the Norwegian Government the contents of Your Excellency's note of November 26, 1928, relating to the draft treaty of arbitration between Norway and the United States of America, I have the honor to inform Your Excellency, that I have been instructed to point out that, in the opinion of my Government, the words in the beginning of article I of the draft, viz: "differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise" are quite sufficiently clear as a definition of "differences of a legal nature". The addition further on in the same article: "and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law and equity" would, consequently, seem to be superfluous. However, the Norwegian Government considers that it can accept the said addition, and declares itself in agreement with the Government of the United States of America that the addition shall not be construed as affording a further opportunity to the Governments of declaring any concrete dispute to be outside the scope of the treaty.

My Government does not either insist upon striking from article I of the proposed treaty the sentence "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington June 24, 1914." On the other hand the Norwegian Government finds it necessary to propose, in order to give the clearest possible expression of the intention of the Parties, that the words quoted be redrafted to

read as follows: "which if they have been referred to the Permanent International Commission constituted pursuant to the treaty signed at Washington, June 24, 1914, have not been adjusted as a result of this procedure." It is hoped that this rewording, which, it is thought, meets the meaning of Your Excellency, as explained in the note of November 26, 1928, may be found acceptable.

Please accept [etc.]

H. H. BACHKE

Treaty Series No. 788

*Arbitration Treaty Between the United States of America and Norway, Signed at Washington, February 20, 1929*⁶

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

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

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

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

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on April 4, 1908, which expired by limitation on June 24, 1928, and for that purpose they have appointed as their respective Plenipotentiaries:

The President of the United States of America:

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

His Majesty the King of Norway:

Mr. H. H. Bachke, His Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

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

⁶ In English and Norwegian: Norwegian text not printed. Ratification advised by the Senate, February 28 (legislative day of February 25), 1929; ratified by the President, March 8, 1929; ratified by Norway, April 25, 1929; ratifications exchanged at Washington, June 7, 1929; proclaimed by the President, June 7, 1929.

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which, if they have been referred to the Permanent International Commission constituted pursuant to the treaty signed at Washington June 24, 1914, have not been adjusted as a result of this procedure, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

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

ARTICLE II

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

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

(b) involves the interests of third Parties,

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

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

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by the Kingdom of Norway in accordance with its constitutional laws.

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

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

DONE at Washington the twentieth day of February in the year of our Lord one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]

H. H. BACHKE [SEAL]

ANNEXATION BY NORWAY OF THE ISLAND OF JAN MAYEN¹

857.014/66

The Norwegian Minister (Bachke) to the Secretary of State

WASHINGTON, May 9, 1929.

SIR: With reference to the Norwegian Minister's note to the Secretary of State of May 17, 1926² in regard to the annexations on the Arctic island Jan Mayen of the Norwegian Meteorological Institute, I hereby have the honor, acting under instructions from my Government to notify Your Excellency's Government that by a Royal Decree of May 8, 1929, the said island has been placed under the sovereignty of Norway.

The authority of police on the island is exercised by the chief of the Norwegian Meteorological Station.

Accept [etc.]

H. H. BACHKE

857.014/68

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, June 28, 1929.

SIR: I have the honor to acknowledge the receipt of your note of May 9, 1929, informing me that the Norwegian Government by a Royal Decree of May 8, 1929, has placed the Arctic Island of Jan Mayen under the sovereignty of Norway and that the police authority on the Island will be exercised by the chief of the Norwegian Meteorological Station.

In reply I have the honor to inform you that the contents of your note under acknowledgment will be brought to the attention of the competent authorities of this Government for their information and guidance.

As you are doubtless aware a question has arisen in the past with regard to the rights of an American citizen, Mr. Hagbard D. I. Ekerold,

¹ For previous correspondence regarding the Island of Jan Mayen, see *Foreign Relations*, 1927, vol. III, pp. 479 ff.

² *Ibid.*, 1926, vol. II, p. 825.

and of an American company organized by him, the Polarfront Company, to the land occupied by the Company for the establishment of two fox farms. This matter, in so far as the Department is aware, has not yet been settled.

In the circumstances I have the honor to state in acknowledging your note informing me of the placing of the Island of Jan Mayen under Norwegian sovereignty that this Government is confident that the Norwegian Government will not fail to respect the rights of Mr. Hagbard D. I. Ekerold and the Polarfront Company.

Accept [etc.]

H. L. STIMSON

857.014/73

The Norwegian Chargé (Lundh) to the Secretary of State

WASHINGTON, August 7, 1929.

SIR: I have had the honor to receive your note of June 28, 1929, relative to the placing of the Arctic island Jan Mayen under the sovereignty of Norway.

After having transmitted a copy of your note to my Government I am now instructed to inform you that the occupation of Jan Mayen by Norway is in no way intended to cause changes in the rights which, according to civil law, exist on the island.

As regards the Polar-Front Company, I am instructed to refer to previous correspondence about this case between the Norwegian Foreign Ministry and the United States Minister in Oslo, latest to the said Ministry's letter of August 23, 1927.⁹

A. LUNDH

857.014/81

The Minister in Norway (Swenson) to the Secretary of State

No. 1614

OSLO, March 28, 1930.

[Received April 15.]

SIR: With reference to previous correspondence regarding the annexation by Norway of the Island of Jan Mayen I have the honor to report that the Norwegian Storting has now enacted a law which defines more clearly the status of Jan Mayen, incorporating it as an integral part of the Kingdom of Norway, the same as in the case of Svalbard, and providing for such legislation as is considered of present need regarding private property rights, the administration of justice, etc. There is transmitted herewith a copy of the law under report, which is now in force.

I have [etc.]

LAURITS SWENSON

⁹ *Foreign Relations*, 1927, vol. III, p. 482.

[Enclosure—Translation]

AN ACT REGARDING JAN MAYEN

I

The Island of Jan Mayen shall be an integral part of the Kingdom of Norway.

II

The Norwegian civil and penal codes as well as the laws governing the administration of justice are made applicable to Jan Mayen. The King shall decide to what extent other laws shall apply. The King may make such changes in the above laws as he may deem necessary to meet local conditions.

The provision contained in Paragraph 4 of the Law regarding Svalbard shall have corresponding application as to Jan Mayen.

III

All property not transferred to private persons shall belong to the State. No one shall acquire proprietary or usage rights to Government property. The rights of the State to transferred property shall not terminate by reason of prescription.

IV

In order to be lawful, special real rights to property on Jan Mayen which were established before May 8, 1929, shall be registered with the registrar of mortgages for entry on the folio of the property in question within 6 months after this law has entered into force.

V

This law enters into force immediately.

ASSERTION BY NORWAY TO SOVEREIGNTY OVER BOUVET ISLAND
AND OTHER SPECIFIED REGIONS IN THE ANTARCTIC

857.014/57

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 3189

LONDON, November 21, 1928.

[Received December 4.]

SIR: I have the honor to report that in an official reply to a question in the House of Commons on November 19, 1928, the Under

Secretary of State for Foreign Affairs stated that after a careful review of all the issues involved, and having regard to the friendly relations existing between the two countries, His Majesty's Government have decided to waive the British claim to Bouvet Island in favor of Norway.

I have [etc.]

For the Ambassador:
RAY ATHERTON

857.014/58

The Norwegian Minister (Bachke) to the Secretary of State

[Translation]

WASHINGTON, December 12, 1928.

MR. SECRETARY OF STATE: On instructions from my Government I have the honor to inform Your Excellency that, on December 1, 1927, Captain Horntvedt of the Norwegian expedition, on board the steamship *Norvegia*, occupied the Island of Bouvet, situated in the South Atlantic in latitude 54°26' South and longitude 3°24' East, in the name of the Norwegian Crown and in accordance with authorization from the Royal Government.

The Island of Bouvet was placed under the sovereignty of Norway by the Royal Decree of January 23, 1928, and by the same decree the Minister of Justice was authorized to make preparations regarding the exercise of police authority in the above-mentioned island.

Please accept [etc.]

H. H. BACHKE

857.014/58

The Secretary of State to the Secretary of War

WASHINGTON, January 28, 1929.

SIR: I have the honor to enclose for your information and an expression of your views in regard to the reply to be made thereto, a copy of a note of December 12, 1928, received from the Royal Norwegian Legation at this capital¹¹ informing me that the Island of Bouvet in the South Atlantic was placed under the sovereignty of Norway by the Royal Decree of January 23, 1928.

While the Department is not at present aware of any American interests that might be jeopardized by a recognition of Norway's action in this case I should be grateful if you will cause your Department to consider the matter and to be advised of any conclusions which may be reached by it in the premises. I may add as of possible interest that the Department has been advised that the British

¹¹ *Supra.*

Government has decided to waive the British claim to Bouvet Island in favor of Norway.

A similar communication is being addressed to the Secretary of the Navy.

I have [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.
Under Secretary

857.014/60

The Acting Secretary of War to the Secretary of State

WASHINGTON, February 5, 1929.

DEAR MR. SECRETARY: With reference to your letter of January 28, 1929, in which you state that the Island of Bouvet in the South Atlantic was placed under the sovereignty of Norway by the Royal Decree of January 23, 1928, I am pleased to advise you that the War Department knows of no American interest that would be jeopardized by a recognition of Norway's action in this case.^{11a}

Sincerely yours,

C. B. ROBBINS

857.014/63

The Norwegian Minister (Bachke) to the Secretary of State

WASHINGTON, April 15, 1929.

SIR: Prompted by certain statements that recently appeared in the Washington press concerning territorial claims to Antarctic regions, which, it seems to be surmised might arise out of discoveries made or to be made during the flights of Commander Byrd, at present on an expedition to the South Polar Regions,¹² my Government has instructed me to communicate the following:

The Norwegian Government has taken it for granted that the Government of the United States of America, whichever intentions it may have to claim sovereignty to certain parts of the Antarctic regions, in consequence of the standpoint taken in the note of the Honorable Charles E. Hughes, the then Secretary of State, to my predecessor, and dated April 2, 1924,¹³ does not intend to base such possible claims to sovereignty or claims of priority to sovereignty in the South Polar Regions upon the flights of Commander Byrd. In any case, the Norwegian Government assumes that possible claims of this nature do not comprise any part of the territory immediately circumjacent to the South Pole, which, as will be known, was taken

^{11a} A reply to the same effect was received from the Navy Department on February 1.

¹² See *Foreign Relations*, 1928, vol. II, pp. 1001 ff.

¹³ *Ibid.*, 1924, vol. II, p. 519.

possession of in the name of the King of Norway by Captain Roald Amundsen in December 1911, under the name of Haakon VII's Plateau, nor to comprise the territories on both sides of Captain Amundsen's route to the South Pole south of Edward VII's Land and including i. a. Queen Maud's Range.

My Government has instructed me to add that while it is not its intention at the present time to claim sovereignty to the territories referred to above, it considers that the said discovery and annexation constitute a valid basis for a claim of priority to acquire such territories whenever the requirements of international law as to effective occupation of a new territory shall have been fulfilled.

Furthermore, as far as the sovereignty to Edward VII's Land in the Antarctic regions is concerned, the Norwegian Government is of the opinion that considerable weight should be laid upon the fact that the said land or region was explored, mapped and occupied in the name of Norway by Mr. Prestrud and his companions, who, previous to anyone else, in 1911 visited the region referred to on a sleighing expedition from the Bay of Whales.

Please accept [etc.]

H. H. BACHKE

857.014/58

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, May 13, 1929.

SIR: I have the honor to refer to your note of December 12, 1928, in which you were good enough to inform me that the Island of Bouvet was placed under the sovereignty of Norway by the Royal Decree of January 23, 1928 and that by the same Decree the Minister of Justice was authorized to make preparations regarding the exercise of police authority in the above mentioned island.

In reply I have the honor to inform you that the information conveyed in your note under acknowledgment has been duly transmitted to the appropriate authorities of this Government for their information.

Accept [etc.]

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

857.014/63

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, December 7, 1929.

MY DEAR MR. MINISTER: My attention has been called to your note of April 15, 1929, regarding Commander Byrd's scientific expe-

dition into the Antarctic regions, which apparently has not been acknowledged. I therefore hasten to express to you the Department's regret at this apparent oversight.

The reference to your Government's statement regarding the basis for a claim of priority to sovereignty over certain enumerated territories, as indicated on page two of your note, has been noted, but since it is assumed that this was merely brought to the Department's attention for its information, no comment by the Department would seem to be called for at this time.

I am [etc.]

HENRY L. STIMSON

PANAMA

REQUEST BY THE GOVERNMENT OF PANAMA THAT THE UNPERFECTED TREATY OF JULY 28, 1926, BE RECONSIDERED IN ITS ENTIRETY¹

811f.244/98

The Minister in Panama (South) to the Secretary of State

No. 1998

PANAMA, April 22, 1929.

[Received April 29.]

SIR: I have the honor to inform the Department that Señor J. D. Arosemena, the Panaman Secretary of Foreign Relations, has addressed to me a note² . . .

I subsequently received from the Secretary of Foreign Relations Note No. 646 of April 11, 1929, enclosing again copies of the proceedings instituted by the Inspector of the Port, Chief of the National Guard of Colon, in connection with sales made by the Cristobal commissary, at the instance of the British Consul in Colon, to three officers of the English ship *Tritonia* and requesting that such "permits" should not be recognized as valid in future. Copies and translations of this note and its enclosures are transmitted herewith.³ It is observed that the note in its final form also omitted the reference to the Convention of 1903.⁴

From the proceedings of the Inspector of the Port of Colon above-mentioned, it is noted that the English ship's officers were arrested in Colon for having made purchases in the commissaries and that they laid the responsibility on the British Consul who had directed them; that the British Consul was summoned and admitted having sent them to the Canal Zone commissary "without telling them that such sales were limited by a treaty in force between the American and Panaman Governments;" and that the Inspector of the Port refers in conclusion to "the innocence of the accused and the offense committed by the commissary."

I enclose also a copy of my note of acknowledgment, No. 932 of April 13, 1929,³ in which I stated that the matter would be brought to the attention of the authorities of the Panama Canal.

¹ For previous correspondence, see *Foreign Relations*, 1928, vol. III, pp. 663 ff.

² Subsequently withdrawn.

³ Not printed.

⁴ *Foreign Relations*, 1904, p. 543.

Finally there are enclosed herewith copies of my letter of April 15, 1929 to the Governor of the Panama Canal, and of his reply of April 19, 1929, together with the enclosure in the latter of a letter in this connection, dated April 1, 1929, addressed by the Executive Secretary of the Panama Canal to the Secretary of Finance of Panama.⁵

As the Department may desire me to take this occasion to make a formal statement of American rights in respect to the conduct of the commissaries in the Canal Zone, I respectfully request instructions and shall await instructions before again addressing the Secretary of Foreign Relations in the premises.

I have [etc.]

J. G. SOUTH

811f.244/98 : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, May 13, 1929—noon.

33. Your despatch No. 1998, of April 22. Please address a note to the Panaman Government referring further to its note of April 11 and informing the Government that you have been instructed to point out that there is nothing in treaties now in force to prevent the United States Government from making sales at the Canal Commissaries to anyone to whom it may wish to extend the privilege of purchasing there. Since the abrogation of the Taft Agreement⁶ sales have been restricted in practice to certain classes of persons by the voluntary action of this Government and as a matter of policy, but changes in the present policy or the authorization of particular sales in special cases are questions entirely within the discretion of the United States Government so long as the treaty signed July 28, 1926,⁷ remains unratified.

STIMSON

811f.244/107

The Chargé in Panama (Muse) to the Secretary of State

No. 2027

PANAMA, May 20, 1929.

[Received May 27.]

SIR: With reference to my telegram No. 55 of May 19, 6 P. M.,⁸ and previous correspondence concerning the Panaman protest against certain sales made by the Canal Commissaries, I have the honor to transmit herewith copies of the Legation's correspondence with the Panaman Secretary of Foreign Relations on the subject⁹ since Des-

⁵ None printed.

⁶ Abrogated June 1, 1924; see telegram No. 39, May 28, 1924, *Foreign Relations*, 1924, vol. II, p. 522.

⁷ *Ibid.*, 1926, vol. II, p. 828.

⁸ Not printed.

⁹ Only the note of May 16 from the Panaman Minister for Foreign Affairs is printed.

patch No. 1998 of April 22, 1929, to the Department, together with an English translation of Señor Arosemena's note.

I have [etc.]

BENJAMIN MUSE

[Enclosure—Translation]

The Panaman Minister for Foreign Affairs (Arosemena) to the American Chargé (Muse)

D. D. No.

PANAMA, May 16, 1929.

MR. CHARGÉ D'AFFAIRES: I have received your courteous Note No. 956 of the 14th instant,¹⁰ relative to the sale made by the Cristobal Commissary of various articles to three officers of the English ship *Tritonia*, to which I had the honor to call the attention of that Legation in Note No. 646 of April 11th last.

Replying to my communication above-mentioned requesting that in the future similar privileges should not be granted in the Commissaries of the Canal or the Panama Railroad to persons not connected in some way with the enterprises referred to, you inform me that you have received instructions from your Government to point out to me that there is nothing in treaties now in force which prohibits the Government of the United States from making sales in the Canal Commissaries to any one to whom it may wish to extend the privilege of purchasing in them. And you add that although, since the abrogation of the Taft Agreement, sales at the commissaries have been restricted to certain classes of persons, changes in this policy or the authorization of particular sales in special cases are questions which are entirely within the discretion of the United States Government so long as the treaty signed July 28, 1926, is not ratified.

Permit me, Sir, in my turn, to point out the nonconcurrence of the Government of Panama in the thesis sustained in your note to which I refer. The Government of Panama maintains, on the contrary, its constantly expressed opinion that there does exist a treaty in force which prohibits such sales and that that treaty is the one signed in Washington on November 18, 1903, by Plenipotentiaries of Panama and of the United States, ratified in due course by both countries, since this treaty establishes expressly in Article XIII who are the persons for whom the Government of the United States may import free of duty the articles therein mentioned, namely, "officials, employees, laborers and workmen in the service and the employ of the United States and their families". This clause cannot be understood otherwise than as a limitation of the rights granted by Panama to the United States by the treaty in question, because otherwise it would be unnecessary and useless, and it is not conceivable that two plenipo-

¹⁰ Not printed; it is based on telegram No. 33, May 13, noon, to the Minister in Panama, *supra*.

tentiaries would stipulate ineffectual clauses in an international convention of such great transcendancy.

To admit that the United States availed itself of a right when it made sales in its Commissary at Cristobal to officers of the English ship *Tritonia* and that it is entirely within its discretion to extend to whomever it wishes the privilege of purchasing in these establishments, would lead likewise to the acceptance of the theory that this privilege could be extended, for example, to all the inhabitants of the Isthmus of Panama, and that in this way the United States would come to constitute virtually, under certain circumstances, the only salesman in the country; and would also be tantamount to converting the Canal Zone into "a competing and independent community which should ruinously affect their business and reduce their revenues", diminishing at the same time the prestige of Panama as a nation; precisely what ex-President Roosevelt declared on a solemn occasion that it was not and could not be the desire of the United States to do; a promise which the Panaman people have steadily trusted, because of the confidence which the word of that great statesman, who then ruled over the destinies of the United States of America and who was at the same time the most characteristic exponent of the American people, must necessarily merit.

With reference to the treaty signed on July 28, 1926, permit me, Sir, also to express my opinion that that agreement should not be considered as pending ratification in its present form, since the National Assembly, upon examining it, suspended consideration of it until the Executive Power should have the opportunity once more to take steps conducive to the attainment of solutions which should fully satisfy the Nation's aspirations, to which the representations made by our Legation in Washington following the aforementioned decision conform, representations concerning which the Panaman Government awaits the reply of the Department of State.

I avail myself [etc.]

J. D. AROSEMENA

811f.244/107

The Secretary of State to the Chargé in Panama (Muse)

No. 767

WASHINGTON, July 16, 1929.

SIR: The Department has received your despatch No. 2027 of May 20, 1929, enclosing a note of May 16 from the Minister for Foreign Affairs in answer to your note of May 14, regarding the sale of certain articles by the Cristobal Commissary to officers of the English Ship *Tritonia*.

You will please address the following note to the Minister for Foreign Affairs in reply thereto:

"I have the honor to acknowledge the receipt of Your Excellency's note of May 16, 1929, relative to the sale made by the Cristobal Com-

missary of various articles to three officers of the English Ship *Tritonia*.

"In reply, I am instructed by my Government to say that the position of my Government upon the point you raise regarding Article XIII of the Treaty of 1903 was clearly and definitely set forth in the note of Mr. Hay to Mr. de Obaldía of October 24, 1904.¹¹ As to the authority of the United States in the Canal Zone, your attention is directed to the note of the Secretary of State, Mr. Hughes to the Panaman Minister in Washington on October 15, 1923,¹² in which he stated that 'in view of the treaty provisions above [*before*] referred to (provisions of the Treaty of 1903), the provisions of Article 3 of the Panaman Constitution, the laws passed by the Panaman Assembly, the decisions rendered by the Supreme Court of Panama, and certain acts of the Executive branch of the Republic of Panama in the matter, the question of the exercise of jurisdiction by the Panaman Government over the Canal Zone, as stated in Mr. Hay's note of October 24, 1904, to Mr. de Obaldía, can no longer be considered as open to discussion between the two Governments'.

"You state that to admit that the United States availed itself of a right when it made sales in its Commissaries to officers of the English Ship *Tritonia*, which sales were made, be it noted, under peculiar circumstances of stress, as a humanitarian measure, would lead to the acceptance of the theory that this privilege can be extended to all the inhabitants of the Isthmus of Panama and that the United States would come to constitute under certain circumstances virtually the only salesman in the country and would be tantamount to converting the Canal Zone into a competing and independent community which would ruinously affect their business and reduce their revenues which ex-President Roosevelt declared it was not the desire of the United States to do. In reply I desire to point out that under existing Treaties there is no prohibition against the United States selling to all the inhabitants of the Isthmus of Panama. The United States has not done so, however, and as President Roosevelt stated, it is not its desire so to do. In making this statement, President Roosevelt gave expression to the policy of this Government,—a policy to which it has closely adhered—but the statement will not admit of such a broad construction as to imply any intention on President Roosevelt's part to limit the rights definitely accorded to this Government by the Treaty of 1903.

"Finally, you state that the Treaty signed on July 28, 1926, should not be considered as pending ratification as the National Assembly suspended consideration of it until the Executive Power should negotiate further and you refer to the steps taken by the Panaman Legation in Washington in the premises.

"I am instructed to point out that many of the apprehensions expressed regarding the provisions of the Treaty appear, on close examination, to be due to a misunderstanding of the intent of its provisions. My Government feels that certain of the misapprehensions of Panama may be definitely set at rest by an exchange of notes should such be the desire of Panama.

"With respect to the suggestions for fundamental changes in the Treaty, such as the elimination of Article II, regarding the cession

¹¹ *Foreign Relations*, 1904, p. 613.

¹² *Ibid.*, 1923, vol. II, pp. 648, 657.

of a portion of Colon, it may be remarked that the Treaty of 1926, as in the case of most treaties, is the result of a mutual accommodation of interests. Long and tedious negotiations were conducted during which all the points embodied in the Treaty were most minutely considered and discussed from all points of view. It may be pointed out that correspondence leading up to the negotiations in which the viewpoints of the two Governments were set forth carefully in exchange of notes began the latter part of the year 1922. The actual negotiations opened in March, 1924, and the Treaty was signed on July 28, 1926. There was no haste in the consideration of the points at issue. Seldom has a Treaty been gone into more carefully, minutely and painstakingly, and few Treaties have taken so long to negotiate. All points were carefully considered and weighed and an accommodation of interests was finally arrived at. Should Panama now desire to change the Treaty in such a way as to delete therefrom certain benefits conferred by the Treaty on the United States, it would, of course, be necessary for the United States to reconsider the whole Treaty with a view to deciding what benefits accorded to Panama by the Treaty must likewise be deleted if a true accommodation of interests is to be arrived at.

"The Treaty of 1903 forms the charter of the relations between the United States and Panama and the United States, before undertaking the vast enterprise of constructing the Canal, assured itself that it had ample rights, power and authority to justify such an undertaking. The Treaty of 1903 accomplishes this and provides, therefore, in the view of my Government all the essential elements for satisfactory relations with Panama. My Government, however, was happy, in view of the Panaman representations that the exercise by the United States of some of the rights obtained by it in the Treaty of 1903 would work a severe hardship to Panama without commensurate advantages to the United States, to review the situation and to forego certain of its rights in order that Panama might obtain certain additional benefits. The Treaty of 1926 was the result. As that Treaty accorded most generous treatment to Panama and met its requests in a most ample manner, the United States Government learned with great surprise that Panama was not satisfied with the provisions of that Treaty. It feels, however, that much of the apprehension of Panama is groundless and is the result of criticism directed against the Treaty before that Treaty has been given a trial. This trial can be given only after the ratifications of the Treaty when the provisions thereof enter into effect. As stated above, the United States Government is satisfied to base its relations with Panama on the Treaty of 1903. It made very generous concessions to Panama in the Treaty of 1926 and it feels that a trial of those provisions will prove that the apprehensions of Panama are groundless, especially if, as stated above, an exchange of notes should be made to clear up points, the interpretation of which may appear doubtful to Panama. Should Your Excellency's Government have further views to express in the matter, they will of course be carefully and sympathetically considered in all their aspects by my Government."

I am [etc.]

HENRY L. STIMSON

811f.244/118

The Minister in Panama (South) to the Secretary of State

No. 3062

PANAMA, September 21, 1929.

[Received September 30.]

SIR: With reference to the Legation's despatch No. 3006 of August 3, 1929,¹³ and previous correspondence concerning the Panaman protest against certain sales by Canal Zone commissaries and the renewed discussion of the 1926 Treaty arising therefrom, I have the honor to enclose herewith a copy and translation of a note, D. D. No. 1481 of September 17th received from Dr. Ricardo A. Morales, the Acting Secretary of Foreign Relations, in reply to Mr. Muse's note, No. 994, of July 25th, delivered in accordance with the Department's instruction No. 767 of July 16, 1929.

The gist of the enclosed note is that the Panaman Government wishes the Treaty of 1926 to be reconsidered integrally.

No mention of this note has thus far appeared in the press.

I have [etc.]

J. G. SOUTH

[Enclosure—Translation]

The Panaman Acting Minister for Foreign Affairs (Morales) to the American Minister (South)

D. D. No. 1481

PANAMA, September 17, 1929.

MR. MINISTER: I have the honor to refer to the courteous note of the Honorable Benjamin Muse, Chargé d'Affaires a. i., under date of July 25th last, relative to the case of the English ship *Tritonia*.

Permit me, Excellency, to state that my Government reiterates once more by this means that it does not concur in the thesis sustained by Your Excellency's Government in alleging that the commissaries may sell without any restriction. This unlimited and unrestricted right to sell which the said commercial institutions are said to have arises from an erroneous interpretation of the Treaty of 1903 which my Government has never accepted and can never accept, since it is unjust and prejudicial to the rights of sovereignty of the Republic of Panama.

My Government has considered with care the observations and comments made in the note in reference with regard to the treaty signed July 28, 1926. Your Excellency's Government considers that many of the apprehensions expressed with regard to the provisions of the Treaty are caused by a misunderstanding of the intentions of those provisions and suggests that some of the apprehensions of Panama might be eliminated by means of an exchange of notes, if that should

¹³ Not printed.

be the desire of my Government. It is true that there are in the said Treaty vague, obscure terms, phrases which may be interpreted various ways, inexact provisions, all of which have caused apprehensions which may be made to disappear by means of clarifying notes. But even with these clarifications, the Treaty of 1926, in its integrity, does not satisfy the national desires (and) aspirations. It is true that a Treaty, as the Chargé d'Affaires a. i. states in the note in reference, is the result of a mutual accommodation of interests. But my Government considers that what the Republic offers, gives and cedes in that pact surpasses that which is given to her in compensation.

To cite a concrete case, does Your Excellency think that the United States has given Panama adequate and just compensation for the cession of a part of Colón with which Article II deals? On that account and because of the deep hurt the partitioning of the national territory caused to our national patriotism, this article constituted an invincible obstacle to the ratification of the Treaty.

My Government desires, therefore, that the Treaty of 1926 be reconsidered integrally.

The note which I have the high honor of answering reveals clearly to us that Your Excellency's Government is animated with the best will to arrive at a permanent and satisfactory solution of the conflicts which have arisen in the relations of our two countries.

My Government, for its part, earnestly desires to seal the friendship which unites us to Your Excellency's great country with a just, equitable and noble pact which will mark a fixed course toward the indestructible harmony of the lofty interests of both countries.

I avail myself [etc.]

RICARDO A. MORALES

711.192/379

The Secretary of State to the Minister in Panama (South)

No. 809

WASHINGTON, October 14, 1929.

SIR: With reference to your despatch No. 3062 of September 21, 1929, the Department desires that you should deliver the following note in reply to the note received by you from the Acting Minister of Foreign Affairs on September 17:

"I did not fail to communicate to my Government Your Excellency's note of September 17, in which you stated that the Panaman Government desires the reconsideration as a whole of the Treaty signed at Washington in 1926.

"I am instructed to say in reply that the Government of the United States is willing to enter upon new discussions with the Government of Panama regarding the subjects embraced in the Treaty signed in 1926 at such time as the Panaman Government may desire. In doing so the Government of the United States is animated solely by its desire to meet the wishes of Panama and to give further evidence of its friendship for that Republic. As I had the honor to state in my

note of July 16¹⁴ the Government of the United States considers that its own rights and interests are amply safeguarded by the existing Treaty signed in 1903, and it therefore considers the present situation entirely satisfactory from its point of view. The Treaty of 1903 forms and must form the basis of the relations between Panama and the United States, and the Government of the United States can only discuss possible modifications of its provisions upon the understanding that the rights, power and authority which this Treaty conferred upon it, and of which the United States felt compelled to assure itself before entering on the great undertaking of building the Canal, are to be recognized and respected. On the basis of a full recognition of these rights and this power and authority the Government of the United States will gladly give consideration to any proposals for a new Treaty which the Government of Panama may wish to present."

I am [etc.]

HENRY L. STIMSON

AGREEMENT BETWEEN THE UNITED STATES AND PANAMA FOR
REGULATIONS GOVERNING COMMERCIAL AVIATION IN PANAMA

819.7961/65

The Minister in Panama (South) to the Secretary of State

No. 1999

PANAMA, April 22, 1929.

[Received April 29.]

SIR: Confirming my telegram No. 41 of April 22, 12 M,¹⁵ I have the honor to report that I exchanged notes with Señor J. D. Arosemena, the Panaman Secretary of Foreign Relations this morning effecting an agreement for regulations governing commercial aviation in Panama.¹⁶

A copy of my note of acceptance is enclosed herewith.

I have [etc.]

For the Minister:

BENJAMIN MUSE

Second Secretary of Legation

[Enclosure]

*The American Minister (South) to the Panaman Minister for Foreign
Affairs (Arosemena)*

No. 937

PANAMA, April 22, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's Note of April 22, 1929, reading as follows:

"Mr. Minister:

"With reference to our conversations concerning the regulation of commercial aviation in the Republic, I have the honor to inform

¹⁴In telegram No. 89, October 24, 3 p. m., the Minister in Panama requested authorization to change this sentence so as to begin: "As stated in Mr. Muse's note of July 25". The Department replied in telegram No. 55, October 28, 1 p. m.: "No objection."

¹⁵Not printed.

¹⁶For the regulations, see Presidential Decree No. 89, May 4, 1929, Panama, *Gaceta Oficial*, June 17, 1929, vol. xxvi, No. 5526, p. 19103.

Your Excellency that the National Government, recognizing the importance which the security of The Panama Canal has for the United States of America, agrees that three members of the Aviation Board shall always be appointed on designation by Your Excellency's Government.

"The Government of Panama recognizes, as I have said, the special interest which Your Excellency's Government has in the protection of The Panama Canal and, in view of that, considers further that the regulations which we have recently discussed are acceptable and suitable at the same time to insure that protection in terms decorous for both countries, with the following modifications:

"(a) The proposed Joint Commission shall be called simply Aviation Board; it will be presided over by the Secretary of Government and Justice and its members will be appointed by the President of the Republic, three of them on designation by Your Excellency's Government;

"(b) The licenses to operate aircraft in the Republic and for the crews of the same shall be issued by the Aviation Board;

"(c) In the descriptive lists of passengers and crew shall be included not only Chinese, but also all individuals belonging to races whose immigration may be prohibited or restricted in accordance with the laws of the country;

"(d) Aircraft arriving in the territory of the Republic, outside of the cities of Panama and Colon, their adjacent harbors and the flying fields based thereon, shall give reports of communicable diseases to the respective Panaman authorities and the latter shall communicate them to the health authorities of the Panama Canal;

"(e) All aircraft, with the exception of those which may pertain to the defensive forces of The Panama Canal and those which may pertain to and be officially operated by the Panaman Government, and all aviation fields or centers in the Republic of Panama, shall be subject to inspection at any time by the Aviation Board, and by each of its members.

"If the foregoing modifications are acceptable to Your Excellency's Government, the Panaman Government will be disposed to promulgate and will promulgate the decree, a copy of which I enclose herewith and which embraces substantially all the provisions of the draft discussed, with the modification to which I referred.

"I beg Your Excellency to accept the assurances of my highest and most distinguished consideration.

"J. D. Arosemena."

Under instructions from my Government, I have the honor to inform Your Excellency that the modifications proposed by you in the regulations governing commercial aviation in the Republic of Panama are acceptable to it as well as the decree enclosed with your Note which Your Excellency states the Panaman Government will now promulgate.

Accept [etc.]

[File copy not signed]

RESERVATION BY THE UNITED STATES OF ITS RIGHT OF CONTROL OF RADIO COMMUNICATION THROUGHOUT PANAMA¹⁷

819.6341P19/30 : Telegram

The Secretary of State to the Chargé in Panama (Muse)

WASHINGTON, June 4, 1929—4 p. m.

36. The Department has noted in your despatch No. 2009 of April 30¹⁸ that the concession recently granted to the Panama Corporation, Ltd., contains a provision authorizing the Company to establish radio stations. This provision should have been brought to the Department's attention at once by cable.

The Department understands that no final reply has been received from the Panaman Government to the note presented by the legation on February 16, 1927 regarding the Tonosi contract.¹⁹ If this is the case, and unless you consider such action inadvisable for reasons of which the Department is not informed, you will present the following note:

"I am instructed to inform Your Excellency that the Government of the United States has noted that the concession recently granted to the Panama Corporation, Ltd., contains a provision authorizing that company to establish radio stations within the area of the concession. In this connection I have to remind Your Excellency that no final reply has as yet been received to this Legation's note of February 16, 1927, referring to a similar provision in the concession granted to the Tonosi Fruit Company.

As stated in the Legation's note above referred to, the Government of the United States assumes that the Panaman Government does not intend to permit private interests to establish radio telephone or telegraph stations in Panaman territory without the previous consent of the United States, since such action would be a direct violation of the existing agreements between the two governments as confirmed by the decree issued by the Panaman Government on August 29, 1914.²⁰ It is feared, however, that the failure to include in the concession granted to the Panama Corporation, Ltd., a specific reference to the necessity for the prior consent of the United States may cause subsequent misunderstandings, unless the Panaman Government has made it clear, or now makes it clear, to the interested company that any grant of the right to establish radio stations is subject to the decree of 1914.

I am instructed to reiterate on this occasion the view of the Government of the United States that the control by the United States of radio communication throughout the Republic of Panama is essential to the defense of the Panama Canal and consequently

¹⁷ For previous correspondence, see *Foreign Relations*, 1927, vol. III, pp. 499 ff.

¹⁸ Not printed.

¹⁹ See telegram No. 21, February 17, 1927, 10 a. m., from the Minister in Panama, *Foreign Relations*, 1927, vol. III, p. 501.

²⁰ Presidential Decree No. 130, August 29, 1914, *ibid.*, 1914, p. 1051.

to the defense of the territory of Panama. It is not doubted that the Panaman Government, which accepted this view in enacting the decree of August 29, 1914, remains of the same opinion."

STIMSON

819.6341P19/33

The Chargé in Panama (Muse) to the Secretary of State

No. 2048

PANAMA, June 8, 1929.

[Received June 17.]

SIR: With reference to the Department's telegram No. 36 of June 4, 4 P. M., I have the honor to enclose a copy of the note which I presented to the Secretary of Foreign Relations on June 6th,²¹ in compliance with the Department's instructions, concerning the radio concession granted to the Panama Corporation, Limited, and the control by the United States of radiotelegraphy in Panama, my action having been delayed a day by the necessity of obtaining service corrections of portions of the Department's message.

Señor Arosemena read my note and was disposed to enter at once upon a discussion of the matter. . . . he observed that this was one more unjustifiable imposition of a great power upon a weak and helpless state, and that Panama was being deprived of the benefits of modern science and civilization. He added that as long as women and children were allowed in the Canal Zone there could be no war menace sufficiently grave to justify the control by the United States of radiotelegraphy in Panama; that he had himself been informed in the past by high American naval authorities that the control of radiotelegraphy in Panama was not necessary to the defence of the Canal; and that the control by the United States of radiotelegraphy at points in the interior of the Republic was no more necessary than the control of radiotelegraphy in Colombia. At the same time he declared that Panama would never be unfaithful to her agreements and that there would be no change in the status of radiotelegraphy in the Republic without previous agreement with the United States. He explained that he had personally objected to the inclusion of the radio concession in the contract with the Panama Corporation, Limited.

He asserted, however, with some vehemence that the only honorable course for Panama to pursue would be to abolish radiotelegraphy entirely in the Republic. Panama would rather do without radiotelegraphy, he said, than ask the consent of the United States before permitting the establishment of radio stations. He would personally make a fight to have radiotelegraphy forbidden in the Republic. Panama would begin by revoking the radio concession granted to the Panama Corporation, Limited.

²¹ Not printed.

I interrupted at this point to inquire whether I might inform my Government that this radio concession would be revoked. To this Señor Arosemena replied that, while he could not give me this definite assurance now, he would recommend to the President that the radio concession be revoked. I pointed out, nevertheless, that my Government did not seek to prohibit radiotelegraphy in Panama, but that it only proposed to exercise the control which had been granted to it by Panama and which the military and naval authorities had found necessary for the protection of the Canal and, consequently, of the Republic itself. I asked if he found that this control as now exercised by the United States presented any serious obstacle to the development of radiotelegraphy in Panama from a practical point of view, and he agreed that it did not.

The Secretary of Foreign Relations, finally . . . informed me that the question of radio telegraphy would be taken up at the next Cabinet Council and that a formal reply would be made to my note at an early date. I discussed at this point the formation of the Aviation Board in the sense indicated in my despatch No. 2047 of this date.²²

The conversation ended on a very friendly note. Señor Arosemena referred briefly to the three recent difficulties in connection with aviation,²³ commissary sales,²⁴ and radiotelegraphy. He agreed that the first of these had now been happily surmounted and concurred in my expression in English of confidence that we would "come through the other two all right."

I have [etc.]

BENJAMIN MUSE

819.6341P19/36

The Chargé in Panama (Muse) to the Secretary of State

No. 2066

PANAMA, June 24, 1929.

[Received July 1.]

SIR: With reference to my confidential despatch No. 2048 of June 8, 1929, transmitting a copy of my Note No. 973 of June 6, 1929,²⁵ concerning the control by the United States of radiotelegraphy in Panama, and describing my conversation with the Secretary of Foreign Relations at the presentation of that note, I have the honor to enclose herewith a copy and translation of Señor Arosemena's note in reply, No. 1096 of June 21, 1929, which I received on Saturday, June 22nd.

I believe that the Department will consider this note a satisfactory reply to the Legation's note of February 16, 1927, referring to

²² Not printed.

²³ See pp. 728 ff.

²⁴ See pp. 720 ff.

²⁵ Latter not printed.

the radio concession granted to the Tonosí Fruit Company, since it states expressly that the concession granted to the Tonosí Fruit Company, like that granted the Panama Corporation, Limited, must necessarily be understood to be subject to the decree by the Panaman Government on August 29, 1914. Señor Arosemena's note, however, raises the new question of a projected Panaman Government radio station on Coiba Island and omits referring to the suggestions that the situation be made clear to the concessionnaires.

Señor Arosemena stated to me orally that the Panaman Government wished to establish a radio station on Coiba Island and implied that it was being prevented from doing so on account of the control of radio telegraphy by the United States; to which I replied that I was sure that a request from the Panaman Government to establish such a station would be given the utmost consideration by my Government and that, in fact, I had no reason to believe that such a request would be refused. Señor Arosemena then stated that it would be extremely embarrassing for him to make such a request of the American Government. In his note he merely announces the Coiba Island project, incidentally to his assurance that the station will be "under the complete and permanent control of the United States of America."

I have also discussed the Coiba Island project with the authorities of the Fifteenth Naval District and they inform me that, while there has been no formal correspondence on the subject, they had heard a rumor of such a project and they perceive no objection to it. They state that it would be an apparently practical and desirable step for Panama and would offer no danger or inconvenience to The Panama Canal.

I discussed the matter of the note at a picnic yesterday (Sunday) with the Secretary of Foreign Relations and called his attention to the suggestion in my note of June 6th that the Panaman Government should make it clear to the Panama Corporation, Limited, that any grant of the right to establish radio stations is subject to the Decree of 1914. Señor Arosemena replied that the Decree of 1914 is in full force as a part of Panaman law and that the Panaman Government is not responsible for any ignorance of it on the part of the Panama Corporation, Limited. If the Panama Corporation, Limited, should proceed in violation of that decree, he said, it would violate the law of Panama and he added that it is a principle of Panaman jurisprudence that "ignorance of the law is no excuse for the violation thereof."

I shall not insist further on this point until further instructed and I desire in the meantime to submit several local considerations in this connection to the Department. The Panaman Government is at odds at this moment with the Panama Corporation, Limited, over

a point of national dignity, as reported in my despatch No. 2061 of June 21 [24], 1929,²⁶ and it might be particularly embarrassing to the Panaman Government during this episode to point out to the Panama Corporation, Limited, that this detail of the "control" over "one fourth of Panama" (which Mr. Alves has claimed for his Company!) is reserved to the United States. There is, moreover, no immediate prospect of the establishment of a radio station by the Panama Corporation, Limited, and it is, indeed, doubtful if it will ever undertake to establish radio stations in Panama.

Finally, the attorney for the Panama Corporation, Limited, in Panama is Dr. Horacio Alfaro, formerly Panaman Secretary of Foreign Relations, to whom the Legation's note of February 16, 1927, was addressed and who has, of course, a thorough knowledge of the background of the radio situation. Moreover, Dr. Alfaro, since his retirement, is pursuing a lucrative law practice in the Canal Zone, in addition to his practice in Panama, and has become more and more identified with Americans and American activities on the Isthmus. He is also a close personal friend and I could, perhaps, appropriately mention the matter to him. If the Department desires me to pursue the matter further and unless it is essential that the explanation should be made by the Panaman Government itself, I might be able to make it clear to the Panama Corporation, Limited, through Dr. Alfaro, that any grant of the right to establish radio stations is subject to the Decree of 1914. I shall, however, await the Department's instructions before taking any further steps in this matter.

I may add as of possible interest in this connection that Señor Arosemena, before drafting the enclosed note, informed me that the Legation's note of February 16, 1927, was not to be found in the Foreign Office files, and that I furnished him with a copy thereof at his request.

I have informed the Acting Governor of The Panama Canal of the contemplated establishment by the Panaman Government of a radio station on Coiba Island and suggested informally that he may wish to proceed with the routine investigation of the project through the naval and military authorities to the end that a formal decision may be reached concerning it.

I have [etc.]

BENJAMIN MUSE

[Enclosure—Translation]

The Panaman Minister for Foreign Affairs (Arosemena) to the American Chargé (Muse)

D. D. No. 1096

PANAMA, June 21, 1929.

MR. CHARGÉ D'AFFAIRES: With reference to the courteous notes from that Legation, No.'s 565 and 973 of the dates February 16, 1927,

²⁶ Not printed.

and the 6th instant, I have instructions from the Most Excellent President of the Republic to inform you that, as Decree No. 130 of August 29, 1914 is in force, the concessions granted to the Tonosí Fruit Company as well as to the Panama Corporation Limited must necessarily be understood as subject to the terms of that Decree or in other words that the wireless stations which are mentioned in them must remain "under the complete and permanent control of the United States of America," as will be also one which the Government of Panama contemplates establishing on the Island of Coiba for the communication which becomes more necessary every day with the Penal Colony existing there.

Since it is not reasonably possible that a country should be completely deprived of the benefits which new inventions offer with respect to means of communication and since such cannot be the intention or the desire of the United States of America with respect to wireless communication in Panama, it seems natural that the State and the public in general should avail themselves of those benefits which all human communities today enjoy, without any limitation, in our case, other than the necessity of the defence and security of the Panama Canal and of the national territory, for which purposes it was agreed that the United States of America should permanently control the wireless communications on the Isthmus, notwithstanding the fact that that control, necessary without doubt for the protection of the Canal and the national territory in time of war or in a situation like that existing in August, 1914, perhaps would not be indispensable in normal times of peace and concord between the nation[s] such as that inaugurated by the Multilateral Pact of Paris,²⁷ which the National Assembly of Panama recently ratified by Law 69 of 1928.

The Government of Panama is always disposed to facilitate the protection and defence of the Canal for the United States of America by all possible means and even to cooperate with it in the measure of its abilities, and hopes that the American Government will fully appreciate this disposition, which common interests justify, with respect to the measures of security which it may consider necessary to adopt to this end.

I avail myself [etc.]

J. D. AROSEMENA

819.6341P19/38

The Secretary of State to the Minister in Panama (South)

No. 791

WASHINGTON, September 14, 1929.

SIR: The Department refers to the Legation's confidential despatch No. 2066 of June 29 [24] last, with reference to the control by the

²⁷ See *Foreign Relations*, 1928, vol. I, pp. 1 ff.

United States of radio communication in Panama, and observes that while raising the new question of a projected radio station on Coiba Island the Panaman Government in its reply to the Legation's note of June 6 has avoided any reference to the question of making clear to the Panama Corporation, Limited, the general situation with respect to the control of radio stations in the Republic of Panama. The Department also observes that in an informal conversation with the Secretary of Foreign Relations his attention was directed to this omission, and that he replied in substance that as the Panama Corporation, Limited, was charged with a knowledge of the law of Panama, the Panaman Government was not responsible for any ignorance thereof on the part of the Corporation.

It is noted that the Legation proposes to leave the matter on this basis pending receipt of further instructions from the Department. In this connection the Legation also requests instructions as to the advisability of bringing this matter to the attention of the Panama Corporation, Limited, through Dr. Horacio Alfaro, who is the attorney for that company. In the circumstances the Department perceives no necessity for such action, in view of the explicit statement of the Secretary of Foreign Relations that the concession granted to the Panama Corporation, Limited, must necessarily be understood as subject to the provisions of the decree of August 29, 1914.

You will, however, address a note to the Panaman Government referring to the Article concerning radio stations in the concession granted to the Panama Corporation, Limited, and asking that the Legation be given immediate notice in the event that the Panama Corporation, Limited, proposes to take any action under this Article. The Legation is also expected to keep in close touch with any developments that may occur in the region covered by the concession to the Panama Corporation, Limited, and a telegraphic report should be forwarded immediately to the Department in the event that information is obtained indicating that the Panama Corporation, Limited, intends to construct or install radio apparatus in Panama.

With reference to the station which the Panaman Government wishes to erect on the island of Coiba, you should report to the Department any relevant information which may be communicated to you by the American military and naval authorities, and refrain from mentioning the subject to the Panaman Government until you receive further instructions.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

819.6341P19/40

The Minister in Panama (South) to the Secretary of State

No. 3066

PANAMA, September 26, 1929.

[Received October 7.]

SIR: I have the honor to enclose herewith copy of a note which I have addressed to the Acting Secretary of Foreign Relations²⁸ in accordance with the directions contained in the third paragraph of the Department's instruction No. 791 of September 14, 1929, with further reference to the control by the United States of radio communications in Panama and to Article 10 of the contract of the Panaman Government with the Panama Corporation, Limited, of April 11, 1929, authorizing that Company to establish radio stations in this republic.

In the last paragraph of the Department's instruction the Legation was directed to report any relevant information which might be communicated to it by the American military and naval authorities concerning the station which the Panaman Government wishes to erect on the island of Coiba. In this connection I enclose a copy of a letter addressed to the Chargé d'Affaires ad interim by the Governor of the Panama Canal on June 27, 1929,²⁸ from which it would appear that the military and naval authorities are awaiting a request from the Department, presumably through the War and Navy Departments, before submitting their views. I assume that the Department is taking the matter up with the War and Navy Departments in Washington and that the reports of the military and naval authorities in the Canal Zone will be made to those Departments.

I have [etc.]

J. G. SOUTH

BOUNDARY DISPUTE WITH COSTA RICA

(See volume I, pages 938 ff.)

²⁸ Not printed.

PARAGUAY

THE CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY

(See volume I, pages 818 ff.)

PERSIA

ATTITUDE OF THE DEPARTMENT OF STATE WITH RESPECT TO THE PERSIAN NATIONALITY LAW OF 1929

891.012/8

The Secretary of State to the Chargé in Persia (Williamson)

No. 682

WASHINGTON, August 26, 1929.

SIR: The Department has received your despatch No. 866 of June 22, 1929¹ and has noted your observations on the proposed new Persian Nationality Law an English translation of which was enclosed with your despatch under reference.

While this Government is not in a position to contest Persia's right, in the absence of the Capitulations, to enact such nationality laws as it may consider desirable, the Department would of course, where such legislation conflicts with American law, not hesitate to instruct its representative at Teheran to make appropriate representations to the Persian Government in behalf of any American nationals in Persia whose rights acquired under American law are infringed upon by Persian law or regulations.

With regard to certain provisions of the proposed new Persian Nationality Law which you believe are objectionable, the following comments are submitted by the Department for your consideration and guidance:

(1) The Department has noted your comments on the provision contained in Article I, Paragraph 1, as at present drafted, stipulating that "all inhabitants of Persia, except persons whose foreign nationality is confirmed by documents of nationality uncontested by the Persian Government, are Persian subjects." While provisions along the general lines of the above are found in some nationality laws, the presumption by the legislating State that the inhabitant in question is a national of that State may as a rule be removed by the mere presentation of a document, emanating from the appropriate authorities of a foreign State, and showing that the inhabitant of the legislating State is a national of the foreign State in question. Each State must determine what persons have its nationality under its laws, and is responsible for the issuance of certificates or other documentary evidence of its nationality, and it is not deemed to be competent for the authorities of a foreign State in

¹ Not printed.

which the holder of such documentary evidence is found to claim him as a national by merely "contesting" the document. It remains true, of course, that when there is evidence that the document was fraudulently procured the matter can be brought to the attention of the government by which the document was issued.

In view of the above, it would be helpful to the Department if you could ascertain, by discreet oral inquiry, the exact interpretation given by the competent Persian authorities to the above paragraph of Article I as at present drafted and the manner in which those authorities envisage its operation if it is incorporated without modification into law.

(2) With respect to the provisions of Article I, Paragraph 2, to the effect that "persons born of a Persian father, whether they are born in Persia or abroad, are Persian subjects," the Legation is reminded that under the 14th Article of the Amendments to the Constitution of the United States a child born of Persian parents in the United States is regarded as an American citizen. It should be noted, however, that this Government does not deny that persons born of Persian parents in the United States may at the same time have Persian nationality under Persian law or, in other words, that persons of the above category are recognized as having automatically acquired dual nationality at birth. In view, therefore, of the position of this Government in this matter as set forth above, the provisions of the second paragraph of Article II of the proposed Persian Nationality Law referring to the recognition of dual nationality by specific "authorization" would not appear to be applicable in the case of persons born of American parents in Persia. The paragraph in question reads as follows:

"With regard to children born in Persia of foreign parents whose respective countries consider in principle that children born of Persian parents in their territory are their own nationals and make their Persian nationality subject to an authorization, reciprocally they will be treated in the same manner."

(3) As the Legation is fully aware, this Government has long opposed the principle of inalienable allegiance and the consequent claim of certain foreign countries that their nationals may not acquire American nationality without the consent of the governments of those countries. This principle which has figured in the past nationality laws of Persia figures also in Article XIII of the proposed new law.

As in the past so also in the future, the Department will expect its representatives abroad to make every appropriate effort to protect the rights of American naturalized citizens whatever may have been their country of origin.

(4) It is noted in paragraph numbered two of Article XIII that Persian nationals, after they have received due authorization to

abandon their nationality, "must agree beforehand to transfer to a Persian subject . . . all their rights to any real estate which they may own in Persia or which they might acquire by inheritance."

It is further noted that in the case of Persian nationals who acquire foreign nationality without the consent of their government, "their movable goods . . . will be sold," etc. The Department does not understand why, in the latter case, provision has been made only for the disposition of the movable goods of such former Persian nationals, since the disposition of immovable property in such cases would appear to be a much more important question. Further clarification also on this feature of the proposed new Persian Nationality Law would be helpful to the Department.

With respect to your suggestion that a naturalization convention might be concluded between the United States and Persia defining the status of naturalized and native American citizens who are claimed as nationals by Persia, you are informed that it is the policy of this Government to conclude such treaties where necessary and possible and the Department would be pleased, when the negotiations are initiated for the conclusion with Persia of a treaty of friendship, commerce and establishment,² to suggest to the competent Persian authorities the negotiation also of a naturalization convention if the Legation has reason to believe that such suggestion would be favorably received. It is of course understood that this Government would not be prepared to recognize, in such a treaty, the principle of inalienable allegiance.

I am [etc.]

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

891.012/18

The Chargé in Persia (Williamson) to the Secretary of State

No. 964

TEHERAN, October 30, 1929.

[Received November 30.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 682 of August 26, 1929, relative to the new Persian Nationality Law, a definitive translation of which accompanied despatch No. 952 of October 14, 1929.³

In reply to various points brought up by the Department, I have the honor to submit the following:

1. The competent official in the Persian Foreign Office has interpreted the first paragraph of Article I in the following sense:

This provision of the law is aimed at Persian subjects who have acquired foreign nationality in violation of the regulation which for-

² Not concluded; see *Foreign Relations*, 1928, vol. III, pp. 682 ff., especially bracketed note, p. 745.

³ Not printed; it reported that the law was passed on September 7, 1929, by the Medjliss and signed by the Shah on September 15.

bids the naturalization of a Persian subject without the Persian Government's permission. The Persian objection to these persons is based on the fact that they often acquire a foreign nationality in order to gain the protection of a foreign Government in their native land. Such persons must prove that they have acquired their foreign nationality in conformity with the Persian Government's regulations, before the Persian Government can recognize them as foreign nationals. The official in question stated definitely that no document bearing witness to the holder's nationality would be "contested" unless there was reason to believe that he had formerly been a Persian subject; in this case, the nationality document would be "contested" until the Persian Government was satisfied that he had been authorized by it to expatriate himself. The records of the Foreign Office contain copies of all authorizations for relinquishing Persian nationality, and thus the Foreign Office will determine upon matters of citizenship.

Before a traveller can leave Persia, his passport must be submitted to the Foreign Office for an "exit visa". At the present time all American passports presented to it are being "contested", in that the records are carefully searched for evidence that the holders of these passports are or have been Persian subjects. No refusal to honor an American passport, however, has come to the knowledge of the Legation since the case of Messrs. Mooshy and Solomon, reported by despatch No. 793 of March 21, 1929,⁵ et seq.

2. The Persian Government's recognition of the principle of dual nationality has not yet been obtained. Several Legations in Teheran have requested elucidation on this point, and the matter is being discussed by the competent Persian officials at the present time.

The Foreign Office official in charge of citizenship matters suggested in the course of a conversation that this Legation set forth the position of the United States in this respect, and as a result of several conferences with him a Note asking for a statement of the Persian Government's attitude towards dual nationality was handed to the Foreign Office. A copy of this Note, No. 398 of October 15, 1929, is transmitted herewith.⁵ No answer has yet been received.⁶

3. In contradiction to the American Government's position on the principle of inalienable allegiance, the Persian Government maintains its former thesis that a Persian subject may not lose his Persian

⁵ Not printed.

⁶ In despatch No. 180, August 1, 1930, the Minister in Persia reported no acknowledgment had been received to that date, but that he had learned that the Persian Government took the position "that the question of dual nationality in Persia is a matter which should be decided upon by the Persian Government by virtue of a special law and that the Persian authorities do not at present consider it fit to take any steps in the matter" (891.012/23).

nationality without "the authorization of the Council of Ministers" (Article XIII, paragraph 2).

By the new law, moreover, a penalty is imposed upon the Persian subject who legally divests himself of his Persian nationality (Article XIII, paragraph 3).

Such Persian subjects as acquire foreign nationality without the authorization of the Council of Ministers are subject to the forced sale by the Persian Government of their immovable property; they also lose important civic rights (Article XIV). There is no doubt but that the sale of their property under these conditions will in practice be tantamount to confiscation. In Persia, moreover, the loss of the privilege to occupy Government position is a serious social handicap to a man of good standing, since all but the peasant and small artisan class aspire to a position in the Government.

Thus, on the practical side the law seeks to penalize the Persian who becomes naturalized abroad; and on the legal side, the Persian Government denies the principle that a Persian subject has the right to divest himself of Persian nationality without the Government's consent. Therefore, for the American Government effectually to protect the persons and property of Persians who have acquired American citizenship through naturalization remains a difficult if not hopeless task.

4. With reference to the phrase "the immovable goods" occurring in paragraph 2 of Article XIII of the text of the proposed law, I have the honor to draw the Department's attention to Article XIII [XIV] paragraph 3 of the Nationality Law as finally passed (enclosure to despatch No. 952 of October 14, 1929), where the word "immovable" has been substituted for "movable".

In conclusion, it may be stated as probable that the law as it now stands will be amended as a result of the verbal and written representations made by various Legations since the enactment of the law. The British have been particularly insistent on the recognition of the principle of dual nationality since some thousands of British subjects in South Persia are affected by Article I of the new law. The Russian Ambassador also is reported to have said that, should the Persians attempt to enforce the provisions of this law to the detriment of members of the Soviet, "there are two hundred thousand Persians in Russian Azerbaijan" who would feel the consequences.

I have [etc.]

DAVID WILLIAMSON

PERU

**TACNA-ARICA DISPUTE: GOOD OFFICES OF THE UNITED STATES IN
THE FINAL SETTLEMENT OF ISSUES BETWEEN CHILE AND PERU;
REPRESENTATIONS BY BOLIVIA**

(See volume I, pages 720 ff.)

PORTUGAL

ARBITRATION TREATY BETWEEN THE UNITED STATES AND PORTUGAL, SIGNED MARCH 1, 1929¹

Treaty Series No. 803

Arbitration Treaty Between the United States of America and Portugal, Signed at Washington, March 1, 1929²

The Government of the United States of America and the Government of the Republic of Portugal

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

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

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

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on April 6, 1908, which expired by limitation on November 14, 1928, and for that purpose they have authorized the undersigned to conclude the following Articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission

¹A draft of this treaty was submitted to the Portuguese Legation March 21, 1928, and was accepted without change.

²In English and Portuguese; Portuguese text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, June 4, 1929; ratified by Portugal, August 5, 1929; ratifications exchanged at Washington, October 31, 1929; proclaimed by the President, October 31, 1929.

constituted pursuant to the treaty signed at Lisbon, February 4, 1914, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Portugal by the President of the Republic of Portugal after its enactment by law or by Decree with force of law.

ARTICLE II

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

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

(b) involves the interests of third Parties,

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

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

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by the President of the Republic of Portugal after its enactment by law or by Decree with the force of law.

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

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

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

[SEAL]

FRANK B. KELLOGG

[SEAL]

ALTE

RUMANIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND RUMANIA, SIGNED MARCH 21, 1929

711.7112A/2 : Telegram

The Secretary of State to the Chargé in Rumania (Patterson)

WASHINGTON, April 21, 1928—6 p. m.

17. The Secretary today handed to the Rumanian Minister a draft of a proposed treaty of arbitration between the United States and Rumania.¹ The provisions of the draft operate to extend the policy of arbitration enumerated in the Arbitration Convention concluded in 1908 between the United States and several other countries.^{1a} The language of the draft is identical in effect with that of the arbitration treaty recently signed with France² and with the draft arbitration treaty already submitted to other governments in the general program for the extension of these principles.

The Secretary also handed to the Minister a proposed draft of a conciliation treaty modeled after so-called Bryan treaties signed by the United States with many countries in 1913 and 1914.³

Full texts are being forwarded in next pouch.

KELLOGG

711.7112A/6 : Telegram

The Secretary of State to the Chargé in Rumania (Patterson)

WASHINGTON, August 10, 1928—4 p. m.

30. Rumanian Minister has stated his Government glad to negotiate treaty of arbitration and treaty of conciliation with United States and expressed hope treaties may be signed before my departure on August seventeenth. To enable this necessary Minister should have full powers. Say to Minister for Foreign Affairs that if autographed full powers mentioning both treaties or separate full powers in each case be exhibited to you, you will be glad to cable their texts in full to me. Cable promptly.

KELLOGG

¹ Draft not printed.

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

² *Ibid.*, 1928, vol. II, p. 810.

³ For index references to the Bryan treaties, see *ibid.*, 1914, p. 1130; *ibid.*, 1915, p. 1323; *ibid.*, 1916, p. 1007.

711.7112A/7 : Telegram

The Chargé in Rumania (Patterson) to the Secretary of State

BUCHAREST, August 11, 1928—1 p.m.

[Received August 11—11:15 a. m.]

33. Department's telegram 30, August 10, 4. p. m. Roumanian Minister for Foreign Affairs ad interim states minor differences in treaty of arbitration submitted to Roumanian Minister at Washington for discussion with Department of State. Until reply thereto received unable to grant full powers.

PATTERSON

711.7112A/13

*Memorandum by the Assistant Chief of the Treaty Division
(McClure)*

[WASHINGTON,] September 7, 1928.

Mr. Petala⁴ called at the Treaty Division by appointment this morning and quickly indicated that his object was to discuss the proposal made by his Government, set forth in the Legation's note of August 23, 1928 (711.7112A/9)⁵ to the effect that the Treaty of Arbitration under negotiation between the United States and Rumania should provide specifically that its provisions are concerned only with differences between Government and Government, in other words, not private disputes between individuals.

The conversation, except in one particular, did not develop anything which had not been developed in the conversation with the Chargé d'Affaires of Rumania held in this Division on August 23, 1928. Mr. Petala apparently desired to expedite an answer. He stated that his Government had telegraphed to find out what the attitude of the United States would be. I told him that the decision of the Department would have to be made by the Secretary and that the Secretary would be in his office again next week. At what time he would be able to handle this matter I could not forecast, but that probably it might be placed before him within a short time after his arrival. Mr. Petala requested that he be given another opportunity to state his case orally before we should reply in writing to the Legation's notes of August 18 and August 23, 1928.⁶

It will be recalled that the note of August 23, in introducing the Rumanian proposal to state specifically in the Treaty that disputes to which the obligation to arbitrate applies must be inter-

⁴ Vintila Petala, Secretary of the Rumanian Legation.⁵ Not printed.⁶ Neither printed.

governmental, indicated that this would supersede the proposal of August 18 for the addition of a new article making arbitration inapplicable to disputes falling within the competence of a national court until after such court had rendered a final judgment. Mr. Petala discussed this at some length. He failed to dissent from my suggestion that a dispute originating as a private dispute might be made an inter-governmental dispute at any time simply by one or the other Government taking over the matter; consequently that a dispute between an American citizen and a Rumanian citizen or, especially between an American citizen and the Rumanian Government, might become a dispute between the two Governments at any time which the United States should choose to make it so. It was evident, however, that he desired to safeguard in the Treaty against a Government making such a dispute its own until after it should have been determined in the national court of the other country. In illustrating what he had in mind Mr. Petala suggested several different possible ways in which, in a practical way, a dispute such as he had in mind might arise and develop. One of these illustrations, which he said he proposed because it happened to occur to him personally, was a possible dispute between a private American organization which was interested in the exploitation of Rumanian oil on the one hand and the Rumanian Government on the other. He discussed the importance of petroleum in Rumanian economic life and expressed his Government's desire to encourage the investment of American capital in Rumania. He also mentioned the disagreeable publicity that had occurred over the disputes that had existed in the recent past between American capitalists and his Government. He desired particularly to avoid such publicity in the future.

In response to my suggestion that delays sometimes occurred in courts, he undertook to state that Rumanian courts were required to come to a decision promptly when a case was before them. Mr. Petala, notwithstanding his statement about the illustration being a personal one, left no doubt that the desire of his Government to change the general language of the Treaty, is based upon its desire to avoid the arbitration of disputes that may arise in the future between American exploiters of Rumanian petroleum and the Rumanian Government. I suggested that perhaps there might be less disagreeable publicity and added encouragement to American capital entering Rumania if the means were at hand for bringing such disputes before an impartial tribunal. Mr. Petala did not seem to be impressed with this suggestion.

W[ALLACE] McC[LURE]

711.7112A/19

Memorandum by the Assistant Chief of the Treaty Division
(McClure)

[WASHINGTON,] November 13, 1928.

Mr. George Cretziano, the Rumanian Minister, called at the Treaty Division this afternoon for the purpose of discussing with the Chief of the Division a certain point in regard to the treaty of arbitration under negotiation between the United States and Rumania. In the absence of the Chief, the Assistant Chief talked with the Minister.

The Minister brought with him his carbon copy of the note of August 23, 1928,⁷ which the Rumanian Chargé d'Affaires Prince Sturdza, had, in the Minister's absence, transmitted. The Minister stated that during his recent visit at Bucharest, his Government had instructed him to insist on one point only among the alterations suggested by Rumania. This point is contained in the note of August 23, and consists of an addition to Article II as follows:

"The provisions of this treaty, which concerns only differences between Government and Government, shall not be invoked in respect of any dispute the subject matter of which"

and so on as is contained in the lettered paragraphs of Article II of the draft submitted by this Government to the Rumanian Government.

I told the Minister that this question was under consideration by the Department, but that a decision had not been reached.

The Minister stated that possibly the new Government, resulting from the recent change of Government in Rumania, might view this suggestion in a different way from that of the retiring Government, which was still in power when he left Bucharest. I told the Minister that I was sure the Chief of the Treaty Division would do all that he could to expedite a reply to the Legation in this matter.

The addition proposed by Rumania as outlined above is one which does not seem to be acceptable by this Government. There would seem to be reason for taking seriously the Minister's remark that the new Government in Rumania may take a different view in the matter. The proposed change is rather obviously intended to avoid possible arbitrations which might grow out of disputes between foreign oil operators in Rumania and the Rumanian Government. As the new Rumanian Government is understood to represent primarily the interests of the small agriculturists rather than of the great special interests such as those which might wish to prevent a solution of the outstanding questions between American petroleum interests operating

⁷ Not printed.

in Rumania and the Rumanian Government, it may possibly be that our refusal to accept the alteration will not long interfere with the signing of the treaty.

W[ALLACE] McC[LURE]

Treaty Series No. 794

*Arbitration Treaty Between the United States of America and Rumania, Signed at Washington, March 21, 1929*³

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

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

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

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

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

The President of the United States of America:

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

His Majesty the King of Rumania:

Mr. Georges Cretziano, His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

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

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible

³ In English and French; French text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, June 4, 1929; ratified by Rumania, June 20, 1929; ratifications exchanged at Washington, July 22, 1929; proclaimed by the President, July 22, 1929.

of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

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

ARTICLE II

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

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

(b) involves the interests of third Parties,

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

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

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by His Majesty the King of Rumania in accordance with the Constitutional laws of that Kingdom.

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

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

Done at Washington the twenty-first day of March one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]
G. CRETZIANO [SEAL]

Treaty Series No. 795

Conciliation Treaty Between the United States of America and Rumania, Signed at Washington, March 21, 1929^{8a}

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

Being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America:

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

His Majesty the King of Rumania:

Mr. Georges Cretziano, His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

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

ARTICLE I

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

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

^{8a} In English and French; French text not printed. Ratification advised by the Senate May 22 (legislative day of May 16), 1929; ratified by the President, June 4, 1929; ratified by Rumania, June 20, 1929; ratifications exchanged at Washington, July 22, 1929; proclaimed by the President, July 22, 1929.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

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

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by His Majesty the King of Rumania in accordance with the provisions of the Rumanian Constitution.

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

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

DONE at Washington the twenty-first day of March, one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]
G. CRETZIANO [SEAL]

PROPOSAL BY THE UNITED STATES TO CONCLUDE A COMMERCIAL TREATY FOLLOWING DENUNCIATION BY RUMANIA OF THE AGREEMENT OF FEBRUARY 26, 1926⁹

611.7131/72 : Telegram

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

BUCHAREST, November 27, 1929—6 p. m.

[Received 6:30 p. m.]

31. Ministry of Foreign Affairs officially notifies Legation that it has decided to denounce to take effect March 1st, 1930, the Provisional Commercial Agreement concluded between Roumania and the United States by an exchange of notes, dated February 26th, 1926. This is a general measure in order to enable Roumania to conclude commercial treaties with all countries based on new custom tariff. See Legation's despatches 310 and 320, November 7th and 23rd respectively.¹⁰

WILSON

611.7131/76 : Telegram

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

WASHINGTON, December 11, 1929—6 p. m.

19. Your 31, November 27, 6 p. m., and despatch 310 November 7.¹¹

(1) Official notification of termination of agreement effected February 26, 1926, by exchange of notes has been received from Rumanian Minister here, effective March 1, 1930. Please advise Foreign Office that Department is prepared immediately to undertake negotiation of treaty of commerce and navigation embodying substantially the provisions of Articles 7 to 11 of Treaty of Friendship, Commerce and Consular Rights, signed December 8, 1923, between the United States and Germany.¹² Copies of latter treaty in the English, German and French languages were submitted by Legation to Foreign Office for preliminary study in 1927 (see Legation's despatch No. 390, March 17, 1927,¹³ and 555 March 16, 1928¹⁴). You should state that if Foreign Office is favorably disposed you will be glad to submit as soon as practicable a draft treaty embodying provisions of the kind above indicated. However, you should reserve this Government's freedom to propose such additional provisions as may on further consideration seem appropriate. Department will also forward French translation for convenience of Rumanian officials.

⁹ For exchange of notes, see *Foreign Relations*, 1926, vol. II, pp. 898-901.

¹⁰ Neither printed.

¹¹ Latter not printed.

¹² *Foreign Relations*, 1923, vol. II, p. 29.

¹³ Not printed.

¹⁴ *Foreign Relations*, 1927, vol. III, p. 637.

(2) Reason for proposing short treaty of commerce and navigation is the limited time available for negotiations. If negotiations not completed soon enough for consideration of treaty by Senate during present session of Congress, it could not be brought into force until after Congress reconvenes in December 1930. You may mention latter contingency as a reason for expediting negotiations.

(3) Implications of last paragraph of provisions of Rumanian law quoted in translation on page 2 of your despatch 310, November 7, are not clear to Department. In view of possibility that this provision may envisage policy similar to that described in Legation's 397, April 2, 1927,¹⁵ whereby most-favored-nation clause would in no case be made applicable to the whole customs tariff, particular care should be taken to make it clear to Foreign Office that treaty proposed by the United States would guarantee full most-favored-nation treatment in customs matters. For your guidance see also first paragraph Department's 19, May 9, 1927, 5 p. m.¹⁶

Report promptly by telegraph.

STIMSON

611.7131/81 : Telegram

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

BUCHAREST, December 20, 1929—noon.

[Received 10:25 p. m.]

33. Department's 19, December 12, noon [11, 6 p. m.?[?]]. Foreign Office finds acceptable as basis of commercial treaty articles 7 to 11 of German-American treaty and has referred matter to Ministry of Commerce. In view of anticipated favorable decision and in order to save time Foreign Office suggests draft treaty, which should include French translation, be forwarded immediately. Am informed that in case of necessity and in view of evident impossibility of negotiating numerous commercial treaties before March 1st, time can be extended for six months after that date for those countries which have actually begun negotiations.

WILSON

¹⁵ *Foreign Relations*, 1927, vol. III, p. 632.

¹⁶ *Ibid.*, p. 636.

SETTLEMENT OF THE CLAIM OF THE STANDARD OIL COMPANY OF
NEW JERSEY ARISING OUT OF THE DESTRUCTION OF PROPERTY IN
1916¹⁷

441.11St23/91

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

No. 237

BUCHAREST, July 6, 1929.

[Received July 20.]

SIR: I have the honor to refer to the Department's instructions No. 324 of October 11, 1928,¹⁸ No. 2 of November 9, 1928, and No. 23 of February 20, 1929,¹⁹ concerning the claim of the Standard Oil Company of New Jersey for the destruction of property of the Romano-Americana in 1916.

Mr. Hughes, Manager of the Romano-Americana, called this morning and left with me copies in translation of two communications, the first a letter addressed to the Romano-Americana by the Ministry of Finance, dated June 6, 1929, stating that the total amount for the destruction of the company's property had been set at £2,099,900.18s.2d, and the second letter, dated June 12, 1929, the reply from the Romano-Americana, accepting settlement for this amount. Copies of these two letters are enclosed herewith.¹⁹

It therefore appears that the Romano-Americana and the Rumanian Government have now reached an agreement as to the amount and method of payment for the settlement of this claim.

Mr. Hughes stated this morning, however, that when he had asked the Minister of Finance for the half a million dollars cash which under the agreement was due last month, the Minister of Finance, Mr. Popovici, alleged that the Government was unable to meet this cash payment at the present time. At Mr. Hughes' request the Legation has arranged an interview for him with the Minister of Finance, as Mr. Hughes believes that it may be possible for the Government to find a way to pay the amount now due the Romano-Americana out of the proceeds of its sale of Government oil royalties or out of a loan which the Government is now apparently asking the oil companies to assist in floating.

I shall not fail to keep the Department informed of all new developments in this case.

I have [etc.]

CHARLES S. WILSON

¹⁷ For previous correspondence, see *ibid.*, 1928, vol. II, pp. 957 ff.

¹⁸ *Ibid.*, p. 982.

¹⁹ Neither printed.

441.118t23/94

The Chargé in Rumania (MacVeagh) to the Secretary of State

No. 265

BUCHAREST, August 28, 1929.

[Received September 16.]

SIR: I have the honor to refer to the Legation's despatch No. 255 of August 10, 1929,²⁰ concerning the claim of the Standard Oil Company of New Jersey for the destruction in 1916 of property belonging to its subsidiary the Romano-Americana, and am happy to report that this claim has now been definitely settled.

Mr. Hughes saw Mr. Madgearu upon the latter's return from Poland and explained the situation to him, as reported in my despatch referred to above. Mr. Madgearu, Minister of Industry and Commerce, is also acting Minister of Finance during Mr. Popovici's absence at the Hague. Mr. Madgearu expressed regret and concern at the non-settlement of the claim in accordance with the signed agreement entered into last June, and reported in the Legation's despatch No. 237 of July 6, 1929, and said that he would immediately straighten out the matter. Consequently, on August 24 the Romano-Americana received a cash payment of 72,609,479 lei, which is the equivalent of £89,245.15.9, representing interest payments up to June 1929, and on August 26 received Rumanian Government bonds in £50 and £100 denominations to a total value of £2,099,900 redeemable in 1965.

I have [etc.]

JOHN H. MACVEAGH

²⁰ Not printed.

SIAM
PROPOSED TREATIES OF ARBITRATION AND CONCILIATION
BETWEEN THE UNITED STATES AND SIAM

711.9212A/2

The Secretary of State to the Siamese Minister (Vijitavongs)

WASHINGTON, July 31, 1928.

SIR: I have the honor to transmit herewith for the consideration of your Government and as a basis for negotiation drafts of treaties of arbitration and of conciliation between the United States and Siam.¹

Both of the proposed treaties are identical in effect with treaties of arbitration and of conciliation which were signed at Washington on May 5, 1928, by representatives of the United States and Germany, and with similar treaties which have recently been concluded between the United States and other countries. The draft arbitration treaty resembles in some respects the arbitration treaty concluded between the United States and many countries beginning in 1908, but represents, in the opinion of this Government, a definite advance over the earlier formula. Substantially in the form submitted herewith, treaties have, during the last few months, been signed by the United States with France, Italy, Germany, Denmark, and Finland, respectively.²

The draft conciliation treaty is in all respects similar to the conciliation treaties negotiated in 1913 by this Government and made effective with many countries. During recent months such treaties have been signed by the United States with Germany and Finland, respectively.

I feel that the Governments of the United States and Siam have an opportunity, by adopting treaties such as those suggested herein, not only to promote friendly relations between the peoples of the two countries, but also to advance materially the cause of arbitration and the pacific settlement of international disputes. If your Government concurs in this view and is prepared to negotiate treaties along the lines of the two drafts transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

Accept [etc.]

FRANK B. KELLOGG

¹ Drafts not printed.

² See *Foreign Relations*, 1928, vol. II, Denmark, p. 720; Finland, p. 806; France, p. 816; Germany, p. 867; vol. III, Italy, 102.

711.9212A/6

The Siamese Chargé (Virijakich) to the Secretary of State

No. 1611/71

WASHINGTON, March 26, 1929.

[Received March 27.]

SIR: I have the honour to inform you that I have received from my Government a letter concerning the draft treaties of Arbitration and Conciliation which you had transmitted to me in your letter of July 31st last.

My Government welcomes the opportunity to promote the friendly relations between the two countries and to advance the cause of pacific settlement of international disputes. It has already entered into arrangements for such pacific settlements with many other Powers. It is the desire of my Government to secure wherever possible an unlimited treaty of arbitration rather than a limited treaty of arbitration and a treaty of conciliation. In the recent treaty of Friendship and Commerce between His Majesty's Government and Italy,³ it is provided by Article 2 as follows:—

“The High Contracting Parties agree that in case any difference should arise between them which could not be settled by mutual agreement or by diplomatic means they will submit such difference to one or more arbitrators chosen by them or to the Permanent Court of International Justice at the Hague.

The latter will acquire jurisdiction over the matter either by means of a common agreement between the two Parties, or, in case of a failure to agree, by the simple request of either Party.”

A similar provision also appears in the recent treaty with France.⁴

My Government can conceive of no dispute or difference that might arise between the two countries which it would not on its part be willing to submit to arbitration. It, therefore, desires to suggest as a counter-proposal the negotiation of a single treaty of arbitration for all disputes of whatever nature in substance similar to those contained in its treaties with France and Italy. Since your Government has not adhered to the Statute of the World Court, His Majesty's Government would be willing to accept as a competent tribunal the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907.⁵

If this counter-proposal is not acceptable to your Government, His Majesty's Government is willing to accept as a basis for further negotiations the draft treaties of Arbitration and of Conciliation submitted by the Government of the United States. There are, however, certain modifications in both drafts which my Government desires to secure.

³ May 9, 1926; League of Nations Treaty Series, vol. LXI, p. 215.

⁴ February 14, 1925; *ibid.*, vol. XLIII, p. 189.

⁵ *Foreign Relations*, 1907, pt. 2, p. 1181.

As you are aware, Phya Vijitavongs has been transferred to a European post and a new Minister, His Serene Highness Prince Amoradat, will arrive in Washington sometime in May next. My Government, therefore, desires that further negotiations should await the arrival of His Serene Highness. Full instructions will be given to him before leaving Bangkok.

Accept [etc.]

VIRJAKICH

711.9212A/8

The Secretary of State to the Siamese Minister (Amoradat Kridakara)

WASHINGTON, June 4, 1929.

SIR: I have the honor to refer to the Legation's note of March 26, 1929, in which was discussed the draft treaties of arbitration and conciliation which were submitted by this Government to the Government of Siam in a communication to the Legation dated July 31, 1928.

I have noted with care and appreciation the proposal of the Government of Siam to enter into what is termed an unlimited treaty of arbitration which would provide for the settlement of all differences not settled by diplomacy or by mutual agreement.

It must be remembered, however, that this Government has concluded treaties similar to those proposed to Siam with numerous other countries and that treaties of this character have been ratified and put into force. From the practical point of view, accordingly, it seems preferable not to depart from the formula now being employed.

This Government is not in a position at the present time to accept the more far-reaching suggestion of the Siamese Government, and is therefore gratified that the texts originally proposed may form the basis of negotiations looking to the conclusion of the treaties.

At such time as may be convenient I shall be glad to instruct the appropriate officials of the Department of State to discuss with representatives of the Legation such matters as the Government of Siam may wish to bring up in this connection or, if you prefer, the Siamese counter-proposals may be laid before this Government in the form of a note.

Accept [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

711.9212A/12

*The Siamese Legation to the Department of State*⁶

AIDE MEMOIRE

The counter draft of the Treaty of Arbitration submitted herewith by the Royal Siamese Government differs from the draft submitted by the Government of the United States in four particulars. The views of the Royal Siamese Government thereon will be briefly stated.

I

A new paragraph has been added to Article I of the Original Draft reading as follows:

"There shall be considered as included among the international questions of a juridical character:

- A. The interpretation of a treaty
- B. Any question of international law
- C. The acceptance [*existence*] of any fact which if established would constitute a breach of an international obligation
- D. The nature and extent of the reparation to be made for the breach of an international obligation."

This list of questions which are definitely stated to be covered by the general language of Paragraph I of Article I, is exactly similar to the list of juridical questions which appear in the provisions of the Statute of the World Court concerning compulsory arbitration. It also is contained in the existing Treaty of Arbitration between the Royal Siamese Government and the Government of Netherlands.⁷ It is not claimed that this addition to Article I broadens the scope of the Article, but obviously it clarifies it.

The Royal Siamese Government has noted the fact that the Pan-American Treaty signed at Washington in December 1928⁸ contains likewise the same list of questions which are included as questions of a juridical character. In the Article concerning this Pan-American Agreement published in the *Yale Review*, Summer 1929, and written by Ex-Secretary of State, Charles E. Hughes, it is stated:

"No objection can be taken to these categories. They constitute the classical statement of certain questions that are undeniably justiciable."

The Royal Siamese Government considers the addition of this list of questions a distinct improvement over the original draft and in

⁶ Handed to the Chief of the Division of Far Eastern Affairs by the Siamese Minister, November 30, 1929.

⁷ October 27, 1928; League of Nations Treaty Series, vol. xciii, p. 131.

⁸ The General Treaty of Inter-American Arbitration was signed at Washington, January 5, 1929; vol. i, p. 659.

view of the action of the United States Government in the Pan-American Convention held in Washington in 1928,⁹ it assumes there will be no objection to accepting this counter proposal in regard to Article I.

II

Article I of the original draft submitted by the Government of the United States not only defines the disputes which were covered by the Treaty, but also provided that such disputes should be submitted to the Permanent Court of Arbitration established at the Hague, or to some other competent tribunal. In the draft submitted by the Royal Siamese Government, the provisions concerning the arbitration tribunal are placed in a new Article II.

This Article provides briefly that the court of arbitration shall be the Permanent Court of Arbitration established at the Hague.

The provision in the original draft concerning a special agreement and the provision that such an agreement shall be made on the part of the United States by the President of the United States by and with the advice and consent of the Senate and on the part of Siam in accordance with its customary law have been omitted. Such provisions seem unnecessary. Whether stated or not, some other tribunal may be selected by mutual agreement, and such an agreement would have to be made in accordance with the fundamental laws of each country.

III

Article II includes also a new provision stating that in the event of any dispute as to whether the Court of Arbitration has jurisdiction of any case in accordance with the provisions of the Treaty, the matter shall be referred to and decided by the Arbitration Court. This provision appears in the existing treaty between the Royal Siamese Government and the Government of Netherlands. A similar provision also appears in the Statute creating the World Court in the Article with regard to compulsory jurisdiction.

Even with the utmost care it is extremely difficult to word a treaty in such a way as to leave no possible cause for difference of opinion as to its interpretation or application. It seems therefore desirable to provide in a treaty of arbitration which in general covers all questions concerning the interpretation of treaties, an explicit provision that any possible dispute concerning the application of the arbitration treaty itself should be submitted to the Arbitration Court.

⁹The International Conference of American States on Conciliation and Arbitration, December 10, 1928-January 5, 1929. See vol. 1, pp. 653 ff.

IV

Article III as submitted by the Government of the United States contains four exceptions to the provisions of the Treaty. The counter proposal of the Royal Siamese Government omits the first two exceptions, to wit:

- A. Is within the domestic jurisdiction of either of the High Contracting Parties
- B. Involving the interest of third Parties

Neither of these exceptions appear in the existing Treaty of Arbitration between the Royal Siamese Government and the Government of the Netherlands, nor in the provision of the Statute of the World Court concerning compulsory arbitration.

Obviously a matter which is exclusively within the domestic jurisdiction of either of the High Contracting Parties is not an international dispute of a juridical nature. It is assumed that Exception A was stated in order to make it clear beyond a doubt that the Treaty does not apply to cases which are covered solely by domestic law and which have not been made the subject of any Treaty or Convention. This is so clearly implied in the language of Article I that it seems unnecessary to state it.

Therefore, the Royal Siamese Government would prefer to omit entirely Exception A. If the Government of the United States deems it essential that some exception of this nature should be included in the Treaty, then His Majesty's Government would suggest the following:

- A. Is within the domestic jurisdiction of either of the High Contracting Parties and is not controlled by international law or by any treaty between the High Contracting Parties or any international convention or agreement to which both High Contracting Parties are signatories.

This language is similar in part to that which appears in the Pan-American Treaty of Arbitration which was signed at Washington in December 1928. In that Treaty the clause concerning Exception A reads as follows:

"There are excepted from the stipulations of this treaty, the following controversies:

- A. Those which are within the domestic jurisdiction of any of the parties to the dispute and are not controlled by international law."

It seems desirable to add to this the further statement that such controversies are not controlled by any treaty or any international convention or agreement which is binding upon both Governments.

The expression "international law" by itself is not broad enough to cover matters which have been made the subject of a treaty or inter-

national convention. It appears from the Article by Ex-Secretary of State, Charles E. Hughes, already referred to, that it was not intended that the exception should cover matters which are controlled by treaty provisions, as the following quotations show:

“When the Treaty accepts [*excepts*] those controversies ‘which are within the domestic jurisdiction’ and ‘are not controlled by international law’ there was obvious reference to those situations in which matters that otherwise would fall within the domestic jurisdiction have by reason of an international transaction, through treaty, for example, become the subject of international consideration because they import international obligations.” (*Yale Review*—Summer 1929—Page 655)

“The Pan-American treaty recognizes, as I have stated, that what might otherwise fall within the domestic jurisdiction exclusively may be brought into the international sphere through an international agreement. States are constantly making treaties, removing causes of differences and establishing rights and obligations with respect to matters which are not governed by international law. But when the treaty or convention is entered into, and international rights and reciprocal international obligations are created, the interpretation of that treaty is not exclusively a domestic matter but one of proper international concern. . . . Where international obligations are involved the Pan-American Treaty makes no exception. . . .” (*id.* Page 656)

With regard to the exception of disputes involving other states, it would seem that no explicit reservation need be stated. No such exception appears in any of the existing treaties between Siam and other Governments, nor does it appear in those provisions of the Statute creating the World Court regarding compulsory arbitration.

The statement in the original draft that any case which involves the interest of third parties “is excepted” from the Treaty is so general as to cause some doubt in the mind of the Royal Siamese Government as to its exact scope.

The Royal Siamese Government has entered into general treaties of friendship and commerce with some fourteen European and American Governments. These treaties vary in a large measure.

In some cases certain matters such as the right to acquire property including land are dealt with by specific grants. In others these same matters are covered only by a most favored nation provision. Any dispute with regard to the exact scope of the grant of express rights would inevitably involve the interest of other countries whose treaties include a favored nation clause. Clearly, however, such a dispute should not be excepted from the provisions of the Arbitration Treaty, yet the language of the exception as stated seems to be broad enough to cover such a case.

V

There is one further matter which His Royal Majesty's Government desires to suggest for the consideration of the Government of the United States. The Siamese Government has adhered to the Statute creating the World Court and it assumes that if the United States had adhered thereto, without a doubt the Permanent Court of International Justice would be selected as the arbitration tribunal. If, therefore, before the negotiations of the arbitration treaty are concluded, the Government of the United States should adhere to the Statute creating the World Court, His Royal Majesty's Government would desire to change Article II by providing that the court of arbitration should be the Permanent Court of International Justice; or if it should appear likely that the Government of the United States were going to adhere to the Statute creating the World Court, a provision should be added to the Treaty, stating that if at any time while this Treaty of Arbitration is in effect, the Government of the United States should adhere to the Statute creating the World Court, that the court of arbitration should be The Permanent Court of International Justice.

VI

The Royal Siamese Government considers these changes in the Treaty of Arbitration of considerable importance quite apart from its relations with the Government of the United States. There are few American interests in Siam and the trade and commerce between the two countries is so slight that there is little likelihood that any controversy will arise which would be affected by an arbitration treaty. However, the negotiation of a treaty with the Government of the United States might have considerable effect as a precedent in the negotiations in the future of arbitration treaties with European countries which have large interests in Siam. It is the desire of the Royal Siamese Government to secure with such countries as wide and unlimited treaties of arbitration as possible. The counter draft submitted herewith is substantially similar to the arbitration treaty already existing between the Royal Siamese Government and the Government of the Netherlands. The Royal Siamese Government would be somewhat reluctant to negotiate with the United States an arbitration treaty of more limited scope.

VII

There is not submitted herewith any counter draft of the Treaty of Conciliation submitted by the Government of the United States. The Royal Siamese Government is in entire sympathy with the spirit of this Treaty but there is one suggestion which it would like to make. In view of the slight contact between the two Governments, it is unlikely that the International Commission, created by the Treaty, will in fact ever be called upon to act. It seems, therefore, unnecessary to set up the Commission within six months after the Treaty is ratified. It is therefore suggested that the Commission need not be appointed until some controversy arises, or until either Government makes a request that the Commission should be appointed.

[A Treaty Division memorandum of July 14, 1930 (711.9212A/14), states:

“The negotiations instituted by note of July 31, 1928, to the Minister of Siam at Washington, for the negotiation of treaties of arbitration and conciliation between the United States and Siam, have remained in abeyance for something like one year, because of the desire of Siam to obtain more far-reaching agreements than the Department has seen its way clear to accept.

“Siam desires a treaty of arbitration based upon the General Treaty of Inter-American Arbitration which a year ago, as now, awaited approval by the Senate. Officers of the Department have taken the position that it would be unwise to sign a new treaty based upon the inter-American formula until the treaty before the Senate has received favorable action. . . .”

The Inter-American Arbitration Treaty was not approved by the Senate until April 1, 1935.]

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY¹

852.6363/153

The Chargé in Spain (Whitehouse) to the Secretary of State

No. 1125

MADRID, January 9, 1929.

[Received January 30.]

SIR: I have the honor to refer to my despatch No. 1092 of December 10, 1928,² relative to the indemnities to the companies which have been expropriated by the Petroleum Monopoly, and to submit a further report thereon.

No reply has as yet been received to this Embassy's note No. 665 dated December 3 [2], 1928.³ The French Ambassador has, however, had a number of official and informal conversations in regard to this matter, and on December 28, received a brief reply from General Primo de Rivera⁴ to his note of November 30 (the translation of which was enclosed with the Embassy's despatch No. 1092 of December 10, 1928).

I am enclosing herewith the French text and the Embassy's English translation thereof of General Primo de Rivera's letter dated December 28 [27], 1928.² The French Ambassador considers this reply entirely unsatisfactory, particularly having regard to the President's statement that he did not consider arbitration applicable to the case under discussion. He considers, however, that the final paragraph of the letter in which the President states somewhat vaguely that he is still disposed to consider any more workable solution, to mean that in the last analysis the Spanish Government may be willing to make better proposals for settlement. The Ambassador, therefore, addressed another note to General Primo de Rivera dated December 28, in reply to the President's letter, of which I am enclosing herewith the French text and the Embassy's English translation.²

The Department will note that in this letter the French Ambassador disputes the President's refusal to accept arbitration under the

¹ Continued from *Foreign Relations*, 1928, vol. III, pp. 832-878.

² Not printed.

³ Quoted in telegram No. 100, December 6, 1928, *Foreign Relations*, 1928, vol. III, p. 877.

⁴ Marqués de Estella, President of the Spanish Council of Ministers and Minister for Foreign Affairs.

1904 Convention,⁵ and after making some rather scathing references to the Spanish Government's procedure in the entire matter, defines what he considers equitable treatment and asks the President to give effect to such treatment in accordance with the last paragraph of the President's letter of December 28, 1928.

In an explanatory footnote which the Embassy has made and included in the translation of the French note of December 28, 1928, the French Ambassador refers to a recent offer of the Petroleum Monopoly to pay off the *Compras y Fletamentos* company in Monopoly shares. These shares are now selling at a premium of approximately 50%, and as not only certain Spanish but foreign interests as well, have been offered payment in these shares, the Ambassador requests that cash compensation on the same basis shall be given to the other companies for the value of the good-will and the trademarks of their business. Settlement along these lines would, of course, be satisfactory to the French and American interests involved, and the French Embassy believes that ultimately the Spanish Government will decide to make additional compensation on a cash basis to the companies already valued to an extent which while it may not amount to the premium of the Monopoly shares, will nevertheless, be a substantial advance on any amount offered up to the present time.

In the meantime, apparently tired of wrangling, the Shell Company has decided to accept final payment for its properties, and on December 8, 1928, received an amount of some 1,110,000 pounds, this sum being calculated at a rate of 29.23 Ptas. to the pound sterling in accordance with negotiations which had taken place between the British Embassy, the Spanish Government, and the Shell representative. The Shell Company has turned over to the Monopoly all of the deeds and documents having to do with its properties and has signed a receipt for the payment without reserves. It has, however, at the same time sent in a petition to Gen. Primo de Rivera stating that the settlements were made under duress, and that it makes reserve of all its rights in case other foreign companies should receive more favorable treatment. In the opinion of competent lawyers here, this petition has no legal value, and may only be of use in view of General Primo de Rivera's promise made in writing over a year ago to the American, British, and French Embassies, that all interests would receive equal treatment.

The Shell settlement, of course, weakens the case of the other companies which are unwilling to settle on a similar basis. The French

⁵ Arbitration convention between France and Spain, February 26, 1904; *British and Foreign State Papers*, vol. xcvi, p. 1180.

Embassy maintains, however, that the Spanish Government is sure to make concessions in the end, if continued pressure is applied by France and the United States, and here the matter rests for the time being.

The guaranteed rate of Exchange which the Shell Company has received is, of course, helpful to the other companies as it establishes a useful precedent, and even if no better terms are ultimately obtained, it means a slight advance on the amount of pesetas which will be paid to the other companies on the basis of the valuation approved by the Council of Ministers last summer. (Exchange is today quoted at 29.75 to the pound sterling in the open market, and the rate given to the Shell Company of 29.23 to the pound therefor, is equivalent to a profit of about 1½%.)

I am enclosing herewith for the Department's information a copy of the above referred to petition sent by the Shell Company to General Primo de Rivera at the time that final payment was made.⁶

I have [etc.]

SHELDON WHITEHOUSE

852.6363/150a : Telegram

The Secretary of State to the Chargé in Spain (Whitehouse)

WASHINGTON, January 14, 1929—5 p. m.

1. For Whitehouse from the Ambassador. I heard a report in New York that an agreement had been reached with the French on oil question and a payment made to them. Have you any information to this effect?

KELLOGG

852.6363/151 : Telegram

The Chargé in Spain (Whitehouse) to the Secretary of State

MADRID, January 15, 1929—1 p. m.

[Received 5:23 p. m.]

1. Whitehouse [for] Ambassador Hammond. No agreement has yet been reached by the French or American petroleum interests with Spanish Government, but Shell interests have accepted settlement. Report may refer to 50 percent owned Standard Oil subsidiary Sociedad Compras and Fletamentos valued at 5,000,000 pesetas which has been offered payment in monopoly shares selling 50 percent premium. Owners have accepted offer but shares have not yet been turned over.

WHITEHOUSE

⁶ Not printed.

852.6363/155

The Chargé in Spain (Whitehouse) to the Secretary of State

No. 1146

MADRID, February 7, 1929.

[Received February 27.]

SIR: I have the honor to refer to the Embassy's despatch No. 1137 of January 26, 1929,⁷ having to do with the petroleum monopoly, and to transmit herewith for the Department's consideration the Spanish text with English translation of a communication which has just been received from the Foreign Office⁷ in reply to the Embassy's note of December 3 [2], 1928.^{7a}

As the Department will see, the copy of the note of January 16, 1929, to the French Ambassador⁷ which forms part of the above referred to Foreign Office communication to this Embassy, is an effort on the part of the Spanish Government to deny the right of the French companies to appeal to arbitration.

The French Ambassador, however, was quite unwilling to accept this refusal of the Spanish Government as final, and on receipt of the note took occasion to discuss it at length with General Primo de Rivera. He told General Primo de Rivera that the note obviously avoided the main point to be arbitrated which had nothing to do with vital Spanish interests, as it was only a question of paying for property which the Spanish Government had illegally seized. He said that it was absurd to state that any question of arbitrating the principle of the monopoly was involved because neither the French nor any other Government had raised the question of the right of the Spanish Government to establish a monopoly. The only question at issue and one which, notwithstanding the Spanish denial, was entirely within the scope of the 1904 arbitration treaty, was the question of more adequate compensation for property which had been seized on behalf of the monopoly.

In regard to the contention in the latter part of the Spanish note of January 16, 1929, that an 8% allowance for good will and going concern value was more than sufficient, the French Ambassador replied that Primo had promised equality of treatment to all interests involved; that Spanish interests had received monopoly shares selling at about a 50% premium in payment for their properties, and that leaving entirely aside the general question of whether an 8% allowance for good will and going concern value of the expropriated petroleum interests was or was not fair, the fact remained that foreign interests whose property had been expropriated were the victims of discriminatory treatment to the extent of the difference between the 8% good will allotted to them and the actual selling price of the monopoly shares (now quoted at 147).

⁷ Not printed.

^{7a} Quoted in telegram No. 100, December 6, 1928, *Foreign Relations*, 1928, vol. III, p. 877.

General Primo de Rivera again avoided the real issue and at once said that as the monopoly was of a national character, foreigners could not be paid in or hold shares, and added that an additional issue of share capital would bring about a great decrease in the present selling price.

To this argument the French Ambassador replied that the interests he represented had no desire whatever to receive shares, but that they simply wished for substantial equality of treatment with Spanish interests, and he added that his Government must insist on this point. General Primo de Rivera replied that it would be impossible to admit compensation on such a scale because, leaving aside French and American interests, it would be necessary to make a further heavy payment to the Shell Company (which has now accepted some 30,000,000 pesetas as compensation, stating that it reserved the right to claim equality of treatment if other interests received further compensation.) The French Ambassador said that this was a concern of the Spanish, not of the French Government; that he would submit the Spanish refusal to accept arbitration to his Government, but that he felt sure that his Government would not be willing to admit for a moment either the validity or the fairness of the position taken up by the Spanish Government. He added that it would be much simpler for the Spanish Government to make a reasonable offer of compensation to the interests involved; that this would be a relatively small matter to the Spanish Government, and that many future difficulties would thus be avoided.

General Primo de Rivera (suddenly passing over the refusal to arbitrate and to grant additional compensation as set forth in the note above referred to) replied that he would again take the matter up with the Finance Minister to see if the Government could find means to give some additional compensation along the lines insisted on by the French Government.

The French Ambassador informs me that he is now awaiting additional instructions from Paris on the basis of the Spanish note, and in a recent conversation stated that his Commercial Attaché is now in Paris discussing further means of action with the Foreign Office. He still believes that by continued pressure the Spanish Government may be induced to give more favorable treatment to the interests involved.

I understand that American interests have been somewhat worried by the recent fall in the Spanish exchange due to the abortive military revolts that have recently taken place in Spain, and that they fear compensation may thus be jeopardized. I do not believe that too much importance should be given to these factors, because in the first place seditions or revolutionary movements in Spain do not have as an object any upsetting of the country's existing

economic system, and, moreover, the Spanish Government having paid the valuation awarded to the Shell interests at the fixed rate of 29.23 pesetas to the pound sterling, and having repeatedly promised equality of treatment to all foreign interests, could hardly do less than give similar terms to French and American interests.

While exchange has declined about 5%, it has already shown a tendency to rally and I do not see any reason to anticipate a severe decline, which would make it difficult for the Spanish Government to obtain the comparatively small sums of money (about 10,000,000 dollars) necessary, to pay off the French and American interests on the basis of their present valuations at the rate given to the Shell Company.

I believe the Spanish Government would be only too glad to pay off the French and American interests immediately should they be willing to accept payment on the terms given to the Shell, which were as above stated, finally accepted under protest on the basis of the Spanish Government's valuation of its properties. The only question now at stake is whether the unpaid interests prefer to temporize, hoping thereby to obtain additional compensation or whether they consider it more expedient to accept the terms now offered them by the Spanish Government.

I have [etc.]

SHELDON WHITEHOUSE

852.6363/147

The Secretary of State to the Chargé in Spain (Whitehouse)

No. 516

WASHINGTON, February 14, 1929.

SIR: Reference is made to the Embassy's despatches No. 1092 of December 10, 1928,^{7b} 1125 of January 9, 1929, and to your telegram No. 1, January 15, 1 p.m., and other correspondence regarding the Spanish oil monopoly.

As you will appreciate it is the position of this Government that the settlement accepted by the Shell interests has no bearing whatsoever upon the principle involved in its correspondence with the Spanish Government on the subject, which is that of securing full and fair compensation for the American interests expropriated in accordance with the recognized principles of Spanish law and equity and of international practice, and in this connection it will be recalled that by the terms of the Spanish Decree of June 29 [28?], 1927^{7c} "industrial value" was recognized as one of the elements to be considered in determining full and fair compensation for the properties expropriated under that Decree.

^{7b} Not printed.

^{7c} *Foreign Relations*, 1927, vol. III, p. 659.

On February 4 a representative of the Standard Oil Company of New Jersey called at the Department and left with it a copy of the following telegram which the Company had received from Mr. H. E. Bedford, Jr., in Paris, under date of February 1:

"French Government still acting energetically in Spanish situation but they feel that action of our Government becoming lukewarm and it would greatly assist us at this time if 'Washington' should instruct embassy Madrid to move energetically to bring matter to a conclusion. Basis Societe Espagnole d'Achats et d'Affretements settlement have already established precedent for much more liberal treatment than has been offered other companies. Greatly fear unless French Government strongly supported by our own their attitude 'may' weaken."

As you are aware, the United States has no arbitration treaty with Spain and consequently its position as regards arbitration is less favorable than that enjoyed by France. However, it is obvious that should the Spanish Government arbitrate the matter with the French Government this Government, in view of the repeated Spanish assurances as to equality of treatment, would expect the Spanish Government voluntarily to apply the principles established by that arbitration to the valuation and payment of the American interests concerned. In this connection, the Department quotes the following assurance contained in a letter received from Mr. S. B. Hunt of the Standard Oil Company of New Jersey, under date of December 14, 1928, as to the Company's willingness to accept settlement on such a basis:

"The attention of this Company has been called to the situation as it now stands in Madrid with respect to the claims of this and other companies in Spain. It is the understanding of this Company that the French are urging a settlement by arbitration under their Arbitration Treaty with Spain.

"In view of the repeated assurances made by the Spanish Government that all companies will be treated alike, this Company consents to and will give its support to the arbitration negotiations insofar as it can do so and abide by the results of the arbitration between the French and Spanish Governments.

"We would not be willing to take shares of the monopoly company in satisfaction of any award to which we may be a party. We desire, therefore, that cash compensation will be provided to be paid in any agreement of submission to arbitration between France and Spain by which we may be bound."

According to the Department's information the Spanish Government has not replied to Mr. Hammond's note of December 2, 1928, which supported the French position. You may, therefore, if you consider that such action would be advisable and helpful, advise the Spanish Government either verbally or in writing or both at your

discretion, at the earliest opportune occasion, that this Government is following the course of the French-Spanish correspondence with keen interest; that in the event that there is a Franco-Spanish arbitration on the matter it would expect the Spanish Government voluntarily to apply the principles established therein to the valuation and payment of the American interests concerned; that the Standard Oil Company of New Jersey has expressed its willingness to accept settlement on such a basis; and that this Government would be grateful for a reply to the observations contained in Mr. Hammond's note of December 2, 1928.

It does not seem likely that the Spanish Government will be in a position to give appropriate and adequate consideration to representations on this subject until the present reported political disturbances in Spain have subsided. The Department therefore relies upon you to choose an appropriate time for making the representations authorized by this instruction and requests that you report briefly by telegram when you have taken action in the premises.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

352.1153St2/111 : Telegram

The Secretary of State to the Chargé in Spain (Whitehouse)

WASHINGTON, February 25, 1929—7 p.m.

7. Department is informally advised by Standard Oil that it has received following cable from Bedford in Paris, dated February 21:

"In view Spain refusal to arbitrate petroleum claims French Government has definitely decided to take retaliatory action unless Spain reconsiders decision and to apply usual charge for identity cards for Spanish subjects in France which has not hitherto been done under treaty of 1862.⁸ This will affect about 200,000 Spaniards in France and involve many millions of francs. French Government representative has just left for Madrid with full authority."

Please consult Standard Oil representative in Madrid and discuss situation informally with your French colleague with a view to obtaining confirmation, reporting by cable with such comments as may seem appropriate.

KELLOGG

⁸ *British and Foreign State Papers*, vol. LII, p. 139.

352.1153St2/115 : Telegram

The Chargé in Spain (Whitehouse) to the Secretary of State

[Paraphrase]

MADRID, March 1, 1929—10 a. m.

[Received 1:15 p. m.]

14. Your telegram No. 7, February 25, 7 p. m. I talked to the French Ambassador yesterday afternoon; he said that the French Government had momentarily considered the possibility of taking retaliatory action such as that referred to in your telegram but had given up the idea.

He had interviewed Primo de Rivera a few days before and had explained at length the arbitration proposal and had pointed out that the arbitration would cover merely the amount of the indemnity to be paid and would not have anything to do with the monopoly. Primo de Rivera replied that under such conditions it would be rather an expert appraisal than an arbitration and the Spanish would undoubtedly win, and that he did not wish to discuss arbitration, moreover, as he was prepared to re-examine the French companies' claims in the Council of Ministers if they would submit figures for the total sums they wanted. He did not want any detailed estimates and made it clear that any increase which might be granted would be on the valuation of physical properties and not an increase either in the percentage given for good will or for discharged employees. In this manner any increase granted to the French companies would not have to be given to the Shell which had accepted the valuation.

The French Government has agreed to this and the French companies are now preparing the required figures. The French Ambassador believes, and I am inclined to agree with him that Primo de Rivera, wishing to avoid arbitration, is sure to offer an increase but it will be small in comparison with the demand made by the companies.

In view of the circumstances, it is my opinion that it will be wiser to await the outcome of the French note before taking any further steps. The French Ambassador likewise is of this opinion.

Copies have been sent to London and Paris.

WHITEHOUSE

352.1153St2/118

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1198

MADRID, April 12, 1929.

[Received April 28.]

SIR: I have the honor to refer to the Embassy's confidential despatch No. 1168 of March 5, 1929,⁹ having to do with negotiations to secure adequate compensation for the foreign petroleum interests expropriated by the Spanish Government. Since this despatch was written there have been no definite developments in the negotiations for increased compensation for the Standard Oil New Jersey subsidiary, Las Industrias Babel y Nervion, and several French companies (Deutsch and Desmarais).

In the course of the last month the French Ambassador has had two conversations with Primo on the subject, and the Embassy has been confidentially informed that, due to the French Foreign Office's dissatisfaction with the Ambassador's negotiations here, the more important negotiations are now proceeding between the Spanish Ambassador in Paris and M. Berthelot.¹⁰ This phase of the matter was referred to in the Embassy's strictly confidential despatch No. 1169 [1196] of April 10,¹¹ having to do with General Primo de Rivera's irritation regarding the criticism of his Government abroad, which he continually states is based on the dissatisfaction of the injured petroleum interests.

The Department will doubtless recall that in January General Primo de Rivera refused the French Ambassador's request for arbitration of the petroleum companies' claims under the Franco-Spanish Treaty of 1904. Later General Primo de Rivera reconsidered his categorical refusal and offered to submit the matter to a Board composed of three French, three Spanish and one neutral expert. In the meantime, during the various conversations which proceeded, both official and informal, General Primo de Rivera said that he was willing to give the expropriated companies 2% or 3% more for good will than had formally been allotted, and the Embassy has now been informed that this offer has been increased in the course of the Paris negotiations to 8%. A concrete instance of how such an offer would work out for the Babel and Nervion Company is as follows: The company was awarded some 19,300,000 pesetas physical valuation plus 8% for good will. A further payment of 8% would mean that the company would receive approximately 22,250,000 pesetas as against an original claim of some 36,000,000 pesetas. The several

⁹ Not printed; see telegram No. 14, March 1, 10 a. m., from the Chargé in Spain, *supra*.

¹⁰ Philippe Berthelot, Secretary General of the Ministry for Foreign Affairs.

¹¹ Not printed.

companies affected consider this supplementary offer of 8% inadequate, and they are, apparently, prepared to go to arbitration on the above referred to basis rather than accept it. It is, of course, presumed that the fixed rate of exchange of 29.23 pesetas to the pound sterling given to the Shell interests at the time of payment in January, 1929 will be given all other foreign interests in accordance with General Primo de Rivera's past undertakings. The fact remains, however, that a practical difficulty arises regarding this matter at the present time, because exchange is now over 10% lower than in January, and the Spanish Government must, therefore, make a supplementary payment in pesetas of this amount no matter what extra compensation in regard to good will or valuation is given.

In the meantime, an interesting development took place a few days ago with regard to the claim for compensation of the Sociedad Espanola de Compras y Fletamentos which may well have an important effect on the negotiations above referred to. The Department will recall that the Sociedad Espanola de Compras y Fletamentos was one of the marketing agents of the Standard Oil Company of New Jersey which owned about 49½% of the company's stock. The balance of the stock was owned to the extent of 28% by French interests allied with the Standard Oil Company of New Jersey, and 22% by various Spanish interests. In the Embassy's despatch, No. 1125 of January 9, 1929, Page 2, reference was made to the fact that the Spanish Government, for some unknown reason, had decided to consider this company a Spanish organization and had offered to pay off its valuation in monopoly shares selling at a premium of 40%. The Spanish Government's decision was communicated to this company in the form of a Royal Order of October 22, 1928, and, as the interests involved decided to accept the offer in view of the premium of the monopoly shares (which amounted in substance to a 40% allowance for good will value) arrangements were made to present the company's title deeds, etc., to the monopoly.

The valuation figure for this company as finally fixed by the Council of Ministers was some 5,900,000 pesetas, this including stocks of merchandise on hand and plant and physical property. In accordance with the arrangement of October 22nd, this figure is to be paid to the company in monopoly shares at par. In addition the usual 8% of the total valuation granted to compensate the companies for loss in business, good will, etc., is to be paid in cash.

The legal formalities and the getting together of the title deeds took several months, and about a week ago the delegate empowered to sign the receipts reached Madrid. To his amazement he was informed that another unknown Royal Order existed to the effect that only half of the company's claim was to be paid in monopoly shares for the time

being, and the other half would not be payable until all the units entitled to payment in monopoly shares had been valued. The reason given was that there might not be enough monopoly shares to go around (only 40% can be issued to acquire property) and that after all a final payment might have to be made in money.

The company objected vigorously to this procedure and sent a petition to the Minister, the Spanish text of which and a substantial translation thereof being enclosed herewith.¹² The Finance Minister refused to reconsider the matter and also refused the request of the French Embassy to change the procedure. Great hardship was thus worked on the company because an arrangement had been made with a Spanish bank to sell the shares at a fixed rate, and the option expired on April 10th. (It should be recalled that the foreign interests in this case entitled to receive the shares are not allowed to retain them under the monopoly legislation.)

I decided to bring this matter to the attention of the Foreign Office, and an arrangement was made for me to take it up with Senor Calvo Sotelo, the Finance Minister, on the evening of the same day, April 5th. Mr. Blair¹³ interpreted during the interview, and a long discussion ensued in regard to the merits of the case. The Minister finally said that he was disposed to reconsider his attitude on the company's claim, and two days later I was glad to hear from him that he had decided to order the full and immediate issue of the shares due the Compras y Fletamentos Company. In this way, Compras y Fletamentos was able to market the shares immediately on what it considered a satisfactory basis, and a large amount of money was saved for the American and French interests.

Toward the end of the interview the subject of other expropriated interests not yet paid for came up and, as the Minister seemed to be in a conciliatory frame of mind, a general discussion ensued. The Minister referred to a talk we had had near Santander last summer and said that the figures for the Babel and Nervion valuation resubmitted by the French Embassy recently (as set forth in this Embassy's confidential despatch No. 1168 of March 5, 1929) were higher than those discussed before. I at once replied that we had only very tentatively discussed a more reduced basis of settlement as a possible means of compromise, and that, moreover, he had never agreed to the figures (monopoly shares were then selling at a 50% premium, and I said I thought a compromise on this basis might be acceptable).

The Minister said he thought the Babel and Nervion claims were much nearer realities than the other protesting French interests, and I replied that, as I thought this was true, the time was ripe for an effort to effect a final settlement. I said we had never sponsored exag-

¹² Not printed.

¹³ Second Secretary of Embassy.

gerated claims; that the interests involved desired to be conciliatory, and that a fair settlement would be to the advantage of all concerned.

Mr. Calvo Sotelo said that he did not wish to stick on trifles and that after further consideration he would be glad to discuss the matter of a settlement again. Desiring to remind him of this statement, I wrote two days later to thank him for his decision giving satisfaction to the Compras y Fletamentos, and expressed the hope that our other differences might now be satisfactorily settled in a similar way.

I am enclosing a copy of my letter,¹⁴ and have in the meantime requested information regarding a figure of compromise for the Babel and Nervion Company which would be acceptable to the Standard Oil Company of New Jersey in order to be prepared for a future discussion.

The C. A. M. P. S. A. shares referred to in my letter to the Finance Minister is the currently used abbreviation for the shares of the petroleum monopoly, entitled: *Compania Arrendataria de Monopolio de Petroleos Sociedad Anonima*.

I believe the Minister really desires to come to terms if he can save his face in some way, the more so as the President is very irritated by the long drawn out negotiations and knows that they give ground for attacks on his Government by many hostile interests abroad.

This phase of the situation was referred to in my strictly confidential despatch No. 1196 of April 10.

I am also enclosing herewith statement of the liquidation of the *Sociedad Espanola de Compras y Fletamentos* which has been furnished me by the company for the Department's information.¹⁴

I have [etc.]

OGDEN H. HAMMOND

352.1158St2/117 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, April 15, 1929—7 p. m.

14. Standard Oil has received cable from Bedford in Paris stating "Spanish Government has settled claims Société Espagnole d'Achats et d'Affretements and company has liquidated shares received at premium of 40%. Our and Industrias Babel y Nervion participation settlement will amount to approximately \$640,000." Bedford further states his belief that the settlement is to a great extent due to the vigorous action taken by you. Bedford states that in his opinion the moment is opportune to press for the settlement of the Industrias Babel y Nervion claim and believes that action on the part of the Embassy similar to that taken with regard to the claim of the Société Espagnole d'Achats et d'Affretements would have the result of effecting a settlement in the very near future.

¹⁴ Not printed.

You are accordingly authorized to take such action in the premises as your judgment may suggest within the scope of the instructions already sent to you.

STIMSON

352.1153St2/119 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

[Paraphrase]

MADRID, May 2, 1929—3 p.m.

[Received 2:30 p.m.]

27. I have just been advised in strict confidence by a telephone message from Paris that the Standard Oil subsidiary, Babel and Nervion, has decided to agree to the latest Spanish offer of settlement made through the French Foreign Office amounting to 24,975,000 pesetas, payment to be made at the guaranteed rate of exchange of 29.23 pesetas to the pound, this in accordance with the Shell settlement. This amounts to a payment of approximately 25% for good will over the physical value of the property. Five percent interest from date of expropriation is allowed and the company is relieved from paying any liquidation taxes whatsoever. The French oil companies, Deutsch and Desmarais, have received similar proposals but are still holding out for 30% payment for good will. The Standard Oil Company desires that this matter be treated as strictly confidential until the Spanish Government has definitely agreed to a separate settlement.

In my opinion this latest Spanish offer has been brought about as a result of the long and concerted French and American pressure and it is my opinion that the Spanish Government will be inclined to treat the Standard Oil Company separately on account of its immediate acceptance since this will establish a good precedent for the treatment of the other French companies. It is my hope that this comparatively favorable settlement will be made at once in view of the uncertainties of the existing political situation in Spain.

HAMMOND

352.1153St2/120

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1227

MADRID, May 9, 1929.

[Received May 27.]

SIR: I have the honor to refer to the Embassy's despatch No. 1198 of April 12, and the telegraphic despatch No. 27—3 p. m.—of May 2, 1929, both giving details of negotiations now proceeding in Paris between the French Foreign Office and the Spanish Ambassador regarding the claims of the petroleum companies expropriated by the Spanish Government. The last offer of the Spanish Govern-

ment referred to in the above mentioned telegram is contained in a long memorandum in French presented by the Spanish Ambassador to the French Foreign Office, and I am enclosing herewith copies of the French text for the Department's information.¹⁶

Briefly stated the three companies in question,—Babel and Nervion, (The Standard Oil of New Jersey subsidiary), Deutsch and Desmarais, after some two months of negotiation in Paris, told the French Foreign Office that they would accept some 60,000,000 pesetas as total settlement of their claims. The Spanish Government offered some 47,000,000 pesetas, but as this was refused, finally made an offer of 51,600,000 pesetas.

This offer works out for Babel and Nervion at about 25% payment for good will over and above physical valuation of property, and is concisely stated in a brief memorandum in English which is transmitted herewith.¹⁶

In the course of the past week considerable wrangling has taken place between the three companies involved, owing to the fact that the Standard Oil interests wished to accept the Spanish Government's offer and the two other French companies are holding off for an additional payment of 5% for good will. The Standard Oil Company, having reached an agreement with its French minority shareholders, advised the French Foreign Office that it was willing to accept the offer, but it was told that the claims of the three companies would have to be dealt with as a unit, and that it was not opportune to divide the claims at the present time.

The most recent development is that the three companies have informed the French Foreign Office that they will accept a round sum of 55,000,000 pesetas in settlement of their claims, and I understand that this offer was communicated to the Spanish Ambassador in Paris by Mr. Berthelot, with the request that the matter be taken up with the Spanish Government by telegram.

It is difficult to say whether the Spanish Government will now desire to make the best of a rather embarrassing situation and will decide to make a final concession of 3,400,000 pesetas in order to settle the matter once and for all. I believe the Finance Minister would like to come to terms, but I understand that he has so thoroughly persuaded General Primo de Rivera of the reasonableness of his original proposals for settlement that the difficulty now lies rather with Primo than with the Treasury.

There is, however, a political factor in the situation which is of considerable sentimental importance and which may well influence the Spanish Government to come to terms as quickly as possible. This factor is the meeting of the League of Nations here in June, and I believe that the Spanish Government may well wish to clear up the

¹⁶ Not printed.

petroleum company claims in order to avoid the possibility of awkward questions during the League meetings.

I, personally, feel the recent offer of the Spanish Government should have been accepted, because, granting the prevailing political uneasiness here and the possibility of a change in regime, I think the offer is favorable from the point of view of the companies. This is particularly true of the Deutsch and Desmarais interests, whose claims are, I understand, relatively high in comparison with the Standard Oil and the Shell figures.

In the course of a recent conversation with the Finance Minister, he acknowledged that the Standard Oil Claims were reasonable, particularly when compared with those of the French Companies, and I gathered that he would be quite willing to come to terms with the Standard Oil were it possible to separate the claims and avoid charges of discrimination.

Bargaining is dear to the hearts of all Spaniards, and it is possible that the above referred to total offer of 51,600,000 pesetas was made with the idea that the last word has not been said and that the Spanish Government would finally agree to the 55,000,000 pesetas demand. This may prove to be true, but should the Spanish Government stick to its last offer, I think the Standard Oil Company may well decide to endeavor to come to separate terms, and this with good chances of success for reasons stated in my telegram referred to at the beginning of this despatch.

The Department will note that in the offer of the Spanish Government it is understood that all payments are to be made at the guaranteed rate of 29.23 pesetas to the pound sterling in accordance with the Shell settlement made last January. This provision, which was reached after long negotiations between the British Embassy and the Spanish Government, has proved to be a most valuable precedent, as exchange is now at some 34 pesetas to the pound. The Spanish Government must, therefore, entirely apart from the payments for compensation on account of property and good-will, make a supplementary payment of almost 20% in pesetas to pay the companies at the guaranteed rate of 29.23 to the pound.

The Department will recall that, in the long negotiations now covering a period of almost two years, the British Embassy was unwilling to associate itself with American and French representations, but the one point of exchange on which it stood firm has now proved to be of great value.

I consider that the weakness of the Spanish exchange is an important reason for reaching a settlement as quickly as possible, because the continued decline in the last three months seems to show that, notwithstanding brave Government pronouncements, there is great uneasiness beneath the surface in regard to the future. For this reason I am ex-

ceedingly hopeful that the American interests at least will soon come to terms on the comparatively favorable basis now available.

I have [etc.]

OGDEN H. HAMMOND

352.1153St2/124 : Telegram

*The Acting Secretary of State to the Ambassador in Spain
(Hammond)*

WASHINGTON, June 15, 1929—11 a. m.

33. Spanish Oil Monopoly. Washington representative of Standard Oil has shown Department copy of Brewster's¹⁷ telegram of June 12 to the head office regarding the Spanish offer to pay approximately \$4,396,000 at the current rate of exchange over period of six months, and advises that Standard Oil is authorizing Brewster to accept at his discretion. Please cable final action taken by Brewster.

Department takes this occasion to commend the Embassy for its successful handling of this difficult and important case.

CLARK

352.1153St2/132

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1278

MADRID, June 21, 1929.

[Received July 8.]

SIR: I have the honor to refer to the Embassy's confidential despatch No. 1227 of May 9, 1929, having to do with the negotiations in Paris for the settlement of the claims of the French and American petroleum companies expropriated by the Spanish Government.

The Department will recall that at the time this despatch was written the Spanish Government had offered through the French Foreign Office a total amount to the three companies in question of 51,600,000 pesetas. Although the Standard Oil Company was willing to accept its pro rata share of this amount the two French companies would not consider it, and after about three weeks of further negotiations the Spanish Government finally made an offer of 53,500,000 pesetas which all three companies decided to accept in principle.

According to an agreement between the three companies, the division of this amount works out as follows:

	<i>Pesetas</i>
Industrias Babel y Nervion	24, 587, 716. 74
Desmarais Frères	7, 888, 568. 65
Marca el Leon (Deutsch)	21, 023, 714. 63
	<hr/>
Total to be paid . . . Ptas.	28, 912, 283. 28 53, 500, 000. 00

¹⁷ W. M. Brewster, the Standard Oil Company's representative in Spain.

In regard to the division, I have been confidentially informed that the Standard Oil Company gave up to the other French Companies almost 500,000 pesetas of its pro rata claim in order to effect a settlement, as the French Companies were unwilling at first even to accept the 53,500,000 pesetas and wished to stand out for a minimum of 55,000,000 pesetas.

Interest of 5% from January 1st, 1928 is, of course, payable on this amount and, in accordance with the negotiations which have been carried on, the total amount is payable at an exchange rate of 29.23 pesetas to the pound sterling, which is equivalent to 6 pesetas to the dollar. As the exchange has been for some time around 7 pesetas to the dollar, this really means that the Spanish Government must pay about 15% more in pesetas than it would have had to pay had it accepted the same settlement six months ago.

Up to the time of the acceptance of a settlement of 53,500,000 pesetas negotiations had been carried on for some months between the Spanish Ambassador in Paris and the French Foreign Office. At the end of May, however, when agreement was finally reached, the French Embassy in Madrid was instructed to communicate direct with the Spanish Government and I am enclosing herewith the French text with English translation of a note from the French Embassy to General Primo de Rivera under date of May 29, 1929,¹⁸ which clearly states the various conditions governing the acceptance of the Spanish offer.

The Department will observe that in the third paragraph of the note under reference the demand is made that all payments to the companies should be free of any charges whatsoever, and in this regard both my French colleague and myself have received satisfactory verbal assurances from the Spanish Government. In regard to the second point having to do with the payment of the money at 29.23 pesetas to the pound sterling, an obstacle has arisen which at the moment is holding up a definite settlement of the matter.

The Spanish point of view is that it is quite willing to pay at a rate of 29.23 pesetas to the pound sterling, but owing to its recent exchange difficulties, it insists on making the total payment in pesetas in order to avoid having to buy gold exchange for the payment. This places a somewhat curious aspect on the matter, because the peseta market has shown extreme fluctuations in the last few months and it is impossible to foresee the course of the exchange in the near future. In practice the Spanish Government wishes to take the total amount of principal and interest payable in pesetas, calculate this at the rate

¹⁸ Not printed.

of the day, which means a supplementary payment of about 15% in pesetas, and let the companies dispose of these pesetas as best they can. The idea of the Spanish Government seems to be to make the companies interested in the maintenance of the exchange.

It is, of course, true that the Shell payment was made in pounds at the above referred to rate of exchange as stated in the French Embassy note. The Finance Minister however insists that this is no precedent in view of the largely increased compensation that is being given to the French and American interests (almost 20% more than the Shell received).

I have had several talks with the Finance Minister with a view to obtaining a more satisfactory method of payment, and suggested tentatively contingent on the acceptance by the interests involved, that the Spanish Government give the Companies an undertaking to protect them from exchange losses. A general outline of this formula was given to the Department by the Standard Oil Company and is contained in the Department's telegraphic instruction No. 33 — June 15, 11 a. m. — 1929. When the Standard Oil Company agreed, failing a better formula to accept this exchange arrangement, the matter was taken up with the French Embassy to obtain their consent.

The French Embassy on its part had also been negotiating and I found was trying to arrange for a consortium of French and Spanish banks to take the whole number of pesetas receivable by the companies at the present rate of exchange and turn them into dollars or francs, less 1% discount for commission.

As this solution, if feasible, would be more satisfactory than the one proposed by the Standard Oil Company, the French Embassy asked me to wait a few days for an answer from Paris. I have accordingly decided to wait until the beginning of next week and, failing a solution along the lines proposed by the French Embassy, I will submit on behalf of the American interests involved, the concrete plan which they have worked out for marketing over a period of three to six months approximately 31,000,000 ptas. which they are to receive.

I am enclosing herewith a draft of this plan to be submitted to the Finance Minister ^{18a} which I hope may be satisfactory to him.

I greatly appreciate on behalf of the Embassy the Department's expression of satisfaction in regard to the outcome of these long and troublesome negotiations, and I am now exceedingly hopeful that I will soon be in a position to report a definite settlement.

I have [etc.]

OGDEN H. HAMMOND

^{18a} Not printed.

352.1153St2/139

The Chargé in Spain (Whitehouse) to the Secretary of State

No. 1302

SAN SEBASTIAN, July 15, 1929.

[Received July 29.]

SIR: I have the honor to refer to the Embassy's despatch No. 1278 of June 21st, 1929 having to do with the negotiations in Madrid for the settlement of the claims of the French and American petroleum companies expropriated by the Spanish Government.

I am now glad to be able to report that negotiations have been finally successful and that, after a great deal of discussion, the Finance Minister has agreed to accept the plan of payment proposed by the Embassy in the memorandum transmitted with the above referred to despatch. The only substantial modifications of the plan are in regard to the margin to be allowed for the sale of the pesetas and the period of time during which sales of exchange will take place.

Briefly stated the plan is that the Babel and Nervion company will receive on August 1st some 31,000,000 pesetas, representing the total amount due for principal and interest converted into dollars at the rate of 6 pesetas to the dollar, and back into pesetas at the rate of exchange of the day. This amount of money will be deposited in the bank and seven equal monthly installments of pesetas will be sold for the account of the company. The originally proposed margin of 2 centimos to the dollar has with the agreement of the company been increased to 5 centimos, which means that, supposing the rate of exchange to be 7 pesetas to the dollar on the day that payment is finally made (August 1st), the company selling the exchange, if it is only able to obtain an average rate of 7.05 to the dollar, will take this small loss, and if, on the other hand, it is able to obtain an average rate of say 6.95 to the dollar, it will take the corresponding profit. If sales of exchange are made over the seven months period at an average price of below 7.05 the Spanish Government guarantees to make good any loss, and if sales are made at better than 6.95 to the dollar the company guarantees to give the Spanish Government any profit accruing therefrom.

As this despatch is being written I understand that the other French companies (Deutsch and Desmarais Freres) have decided to accept this method of settlement. They were only persuaded to do so, however, after long negotiations and after a considerable amount of obstruction both from them and from certain elements in the French Embassy.

The Department will recall that the French Embassy wished to obtain a straight gold payment raising a loan therefor, but this turned out to be impractical and the scheme suggested by this Embassy,

although in the nature of a compromise, was probably the most satisfactory settlement which could be arranged. The acceptance of the other French companies is, I think, a favorable factor, because in the event of any deviation from the Spanish Government's promises joint pressure could be brought to bear by both the American and the French Governments. I do not, however, anticipate any difficulties, as I believe the Minister of Finance is heartily tired of the whole matter and is delighted with the settlement which, up to a certain point, allows him to save face and, incidentally, avoids dumping a large number of pesetas on the market in the immediate future.

For the Department's information I am enclosing herewith a copy of Mr. Hammond's last letter to the Finance Minister and a copy of his reply thereto, with translation,¹⁹ which seems to cover all principal points and only leaves certain minor details to be worked out.

I am also including herewith a copy of the English translation of the slightly amended basic agreement¹⁹ which has been worked out by the exchange expert of the Bank of Spain. The text of this agreement shows little substantial deviation from the plan originally submitted by the Embassy and enclosed with the despatch No. 1278 of June 21st, 1929, the main points of this being the slightly increased margin for exchange sales and the extension of the period during which the sales are to be made.²⁰

I have [etc.]

SHELDON WHITEHOUSE

SPANISH REPRESENTATIONS WITH REGARD TO ALLEGED GRIEVANCES ARISING FROM DIFFICULTIES ENCOUNTERED IN EXPORT TRADE WITH THE UNITED STATES

611.5231/575: Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, April 26, 1929—noon.

[Received 10:40 a.m.]

24. Have just been confidentially, and I believe accurately, informed that Carlos Prast, President of the Spanish Overseas Commerce Board, has written long letter to Primo²¹ reciting various Spanish commercial grievances and asked for the immediate denouncement of existing commercial *modus vivendi*.²² My informant who is, I think, friendly to the United States, takes these grievances seriously and has promised to obtain for me copy of the letter in order that Prast's allegations may

¹⁹ Not printed.

²⁰ In his despatch No. 1315 of July 29, 1929 (not printed), the Chargé informed the Department that the Minister of Finance had issued a Royal order dated July 19 making effective the arrangements outlined above (452.11/227).

²¹ General Primo de Rivera, Marqués de Estella, President of the Spanish Council of Ministers and Minister for Foreign Affairs.

²² *Foreign Relations*, 1927, vol. III, p. 729.

be investigated. One allegation is that Spanish tomatoes and peppers are often thrown overboard by United States customs because it is pretended that they are in bad condition and no chance is given to the shipper to recover the merchandise.

Considerable propaganda is being waged in the press obviously with censor's approval against alleged unfair treatment of Spanish products by the United States and Primo referred guardedly to this in his speech at Huelva dedication monument April 21st. Various phases of the matter are reported in Embassy's despatches 1209, April 22; 1210, April 23; 1211, April 25,²³ the latter enclosing interesting report by Commercial Attaché. In a recent conversation Primo again referred to grievance of requiring Spanish corks to be stamped and said that this was another effort to hinder Spanish trade with the United States. See despatch 1203, April 16th.²⁴

Under the circumstances I would appreciate telegraphic information regarding status of various Spanish grievances brought to the attention of Department with explanation thereof as I may have to discuss matters at any time with Primo and would like to be prepared. Commercial Attaché concurs. Please inform Department of Commerce.

[Paraphrase.] My belief is that the Spanish Government will not dare denounce the *modus vivendi* at present time, but the Government may be forced by the somewhat tense political situation to make a patriotic issue out of alleged grievances against the United States and thereby create a diversion. It is probable that unfriendly foreign interests are in every way encouraging propaganda for that purpose. [End paraphrase.]

HAMMOND

611.5231/581

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1215

MADRID, April 30, 1929.

[Received May 13.]

SIR: In accordance with my telegraphic despatch No. 26 of April 30, 4 P. M., 1929,²⁴ in regard to the possibility of the denouncement of the existing *modus vivendi* between Spain and the United States, I have the honor to transmit herewith the Spanish text with English translation thereof of a note which I have just received from General Primo de Rivera having to do with Spanish grievances and pointing out unless they are redressed public opinion may make a denouncement of the *modus vivendi* necessary.

²³ None printed.

²⁴ Not printed.

I am forwarding the above referred to note in haste by today's pouch and shall discuss it at further length in a subsequent despatch when I receive the Department's reply to my telegram above referred to.

I have [etc.]

OGDEN H. HAMMOND

[Enclosure—Translation]

The President of the Spanish Council of Ministers (Estella) to the American Ambassador (Hammond)

No. 83

MADRID, April 26, 1929.

EXCELLENCY: The preoccupation which for some time has been felt by the Government of His Majesty with regard to the state of commercial relations between Spain and the United States is a fact which undoubtedly has not escaped Your Excellency. The obstacles to Spanish export trade arising from provisions, some of a customs nature and others which, without being specified, have restricted our imports into the United States, have been repeatedly pointed out to the Washington Government by His Majesty's Ambassador without, unfortunately, the action of Senor Padilla having produced the results that might legitimately have been expected; and, at one time grapes, at others garlic, onions, almonds, dried fruits, canned peppers, revolvers and recently cork products have been subjected to treatment other than that which in the opinion of His Majesty's Government they deserve.

It is not necessary to recall at this time the antecedents and circumstances of the legal status of customs relations between the two countries. The most-favored-nation regime is the basis thereof, and the fact of the embargo formerly existing in North America against the importation of Argentine grapes having been raised, without similar treatment being accorded to grapes of Spanish origin notwithstanding reasons of an alleged sanitary nature therefor, shows that the favorable attitude which the Spanish authorities have always shown does not meet with equitable requital on the other side of the Atlantic.

The situation indicated would be, therefore, considerably aggravated should information coming from the United States be confirmed concerning the proposed customs tariff revision, a matter of great importance and one directed toward the increase of duties in classifications which principally interest Spain—a purpose which, should it be confirmed, would increase the notable difference of the trade balance in the exchange of products between the two countries which, in 1927, was 254 million pesetas, gold, in favor of the United States.

The export value of Spanish products to North America in the matter of cork manufactures shows an extraordinary difference as compared with other products, being 84,600,000 pesetas; followed by almonds, 16,000,000; olives, 15,500,000; olive oil in large containers,

12,000,000; chamois skins, 10,600,000; sheet cork, 10,400,000; besides copper ore, goat skins, mercury, rags, onions, filberts, peppers, olive oil in small containers, and canned vegetables and fish in smaller quantities although they exceed a million pesetas in value.

Your Excellency will understand the great importance that the Government of His Majesty must ascribe to an increase of duties and the application of hindrances (I refer to the impost on cork stoppers) to an article which is of such signal importance in the list of Spanish exports to the United States, namely cork manufactures—a product genuinely Spanish, the manufacture of which in Spain has so legitimate a right to protection. The interest felt in the United States in the moving picture industry which, according to the recent note of Your Excellency,²⁶ the Washington Government considers for the sole reason of its important development and progress in the country, should be regarded with consideration by other nations, cannot fundamentally be compared with the cork industry derived as it is from a national product of Spain.

The desire of His Majesty's Government is ever to follow, unswervingly, in its relations with the United States, the policy of cordial friendship and approximation between the two nations. No action whatsoever taken by the Government over which I preside could be considered as a contradiction to this purpose. We want to continue in that purpose, but precisely for that reason I must recommend to Your Excellency that the attention of your Government be called to the problem as stated; since, in view of a trade balance so unfavorable for Spain, as I have just pointed out, and aggravated by the series of restrictive measures and impediments to which I have also alluded, it would be so difficult for His Majesty's Government to fail to take into consideration the importunities it is receiving not only from specially interested quarters but from Spanish public opinion in general, that it would find itself obliged to proceed to the denouncement of the existing *modus vivendi*.

I avail myself [etc.]

MARQUÉS DE ESTELLA

611.5231/575

The Secretary of State to the Ambassador in Spain (Hammond)

No. 545

WASHINGTON, May 3, 1929.

SIR: With further reference to the Embassy's telegram No. 24, April 26, 1929, concerning pressure reported as being brought to effect the immediate denouncement by the Spanish Government of the present *modus vivendi*, there are outlined below, for your convenience,

²⁶ See telegram No. 86, March 28, 1929, to the Chargé in France, last paragraph, vol. II, p. 1006.

the various Spanish grievances which have been brought to the attention of the Department and the present status of these matters:

(1) *Duty on shelled almonds, olive oil and onions.* These grievances are anticipatory. Memoranda have been presented by the Spanish Ambassador against any increases in the present duty on these commodities, and these have been promptly brought to the attention of the Committee on Ways and Means by the Department.²⁸ With particular reference to onions, see the Department's instruction No. 534 of April 4, 1929.²⁹

(2) *Marking of corks.* See Department's telegram No. 3 of February 1, 1929, 7 p. m.²⁹ No appeal was filed within the statutory period of sixty days subsequent to the denial by the Customs Court of the request for a rehearing, and accordingly the decision of October 5, 1928, that corks imported from foreign countries are subject to individual marking to indicate the country of origin, under section 304 (a) of the Tariff Act of 1922,³⁰ automatically became effective on February 26 and must stand unless a new case should be brought before the Customs Court and pursued through to the higher court and the decision should be overruled. The Spanish Ambassador has been so informed. In Treasury Decision 43245 which gave effect to the decision of the Court, very small corks which have not sufficient space for legible marking, are exempted from individual marking and are made admissible with marking on the bags or other immediate containers to indicate the country of origin.

(3) *Eibar revolvers.* The exclusion of Eibar revolvers was under Section 316 of the Tariff Act and because of unfair trade practise in the simulation of a side swing ejector type, which had been manufactured by Smith and Wesson and its predecessors since 1896 and which, incidentally, constituted 90 per cent of that company's business. The revolvers excluded were identical in visual appearance with those of the American company whose distinctive appearance was obtained by a collection of details or elements of design and surface ornamentation, arbitrarily selected, non-functional, and therefore not necessary to be used by a competitor except for purposes of simulation. The imported revolvers were substantial reproductions even to the extent that the trade marks appearing thereon could not be distinguished from that on the American product except by the closest inspection. Previous to the President's order of June 23, 1926, competent United States courts had in several cases sustained the American company in its rights in the distinctive appearance of its revolvers and granted injunctions against the sale of the Spanish imitations held to constitute unfair competition in trade. The exclusion of firearms that unfairly simulate those made in this country is applicable alike to imports from all countries and has been enforced on shipments from other countries. It may be suggested that Spanish manufacturers have only to cease copying American designs in order to avoid any difficulties.

²⁸ See *Tariff Act of 1929: Hearings before the Committee on Finance, United States Senate, 71st Cong., 1st sess., on H. R. 2667, vol. xviii, p. 175.*

²⁹ Not printed.

³⁰ 42 Stat. 858.

(4) *Pimientos*. Paragraph 779 of the Tariff Act makes "whole pimientos packed in brine or oil or prepared or preserved in any manner" dutiable at the rate of 6 cents per pound. Canned Spanish pimientos from which skins, stem and seeds have been removed were first placed in this classification, but the Customs Court of Appeals held that they should be classified as canned vegetables at a lower rate. In 1926, the question was again brought before the Customs Court and, upon a more complete record than in the previous case, it was held that the Spanish pimientos came under section 779. The Customs Court of Appeals in December 1926 sustained that ruling. It was decided that the only form in which anything approaching a "whole pimiento" had ever been imported was with stem, seeds and skins removed, and that therefore it was that form of the commodity which the Tariff Act of 1922 had intended to cover in section 779.

(5) *Canned goods*. Another case arose in connection with canned goods, in which the restrictions imposed were in harmony with those imposed in this country as well as those involved in importations from all foreign countries. The Department of Agriculture, under food regulations, objected to the use of the term "superiores" on labels as extravagant and misleading. A shipment held up in 1927 on this account was admitted with the understanding that in future consignments this term would be omitted unless qualified by an appropriate translation of the term "brand" in the same style and size of letters as the term thus qualified, or immediately preceded by the name of the manufacturer in its possessive form.

(6) *Quarantine against the importation of grapes, oranges and tomatoes*.³¹ There has been no change in the situation with reference to the grape embargo. It should be noted, however, as an indication of the seriousness with which this Government regards the dangers from Mediterranean fly, that, in view of the recent appearance of this pest in a part of Florida, the Congress by joint resolution which was approved by the President on May 2 has appropriated the sum of \$4,250,000 immediately to combat it, and that an embargo has been placed upon fruits from Florida, as was done in the case of fruits from Hawaii.

There has been no change in the situation with reference to the embargo on Spanish oranges. In this connection, it should be recalled that so long as it was believed that oranges were free from Mediterranean fly, an exception was made to the general embargo and oranges were admitted. It was only when it was found that this fruit was infested with the fly that there was a reversal of the special privilege which had been accorded. See letter from Department of Agriculture transmitted with Department's instruction No. 333 of February 11, 1926,^{31a} for full details. This letter was quoted to the Spanish Ambassador at the same time. It should be noted that modification of the embargo to permit the entry of tomatoes from the Canary Islands and Spain was effected promptly after investigation had determined that there was no risk from fruit fly or other pests in the importation of such tomatoes into the United States.

The Department has always been unable to see wherein the situation with respect to Almeria grapes has any proper bearing upon the

³¹ See *Foreign Relations*, 1927, vol. III, pp. 733 ff.

^{31a} Not printed.

question of commercial relationship. It has regretted the unwillingness of the Spanish Government to make the important distinction between purely economic tariffs or other forms of regulating commerce and restrictions or prohibitions under plant quarantines established for the sole purpose of the exclusion of destructive pests.

With reference to the reported allegation of Carlos Prast, president of the Spanish Overseas Commerce Board, that Spanish tomatoes and peppers are often thrown overboard by United States customs authorities because it is pretended that they are in bad condition and no chance is given to the shipper to recover the merchandise, it will be appreciated that investigation will be difficult without more specific information. The Department has, however, informed the Department of Agriculture of this allegation and you will be advised of its report.

The Department is reluctant to believe that the Spanish Government would take the serious step of denouncing the *modus vivendi* on the basis of alleged grievances which, when examined, are shown principally to concern decisions which have been based on substantial grounds. You will, however, keep the Department fully and promptly informed of any developments.

I am [etc.]

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

611.5231/575

The Secretary of State to the Ambassador in Spain (Hammond)

No. 547

WASHINGTON, May 3, 1929.

SIR: With further reference to your telegram No. 24, April 26 noon with regard to the movement for the denouncement of the *modus vivendi*, you are advised, as of interest in the present discussion, that on May 2 the President approved the joint resolution appropriating \$4,250,000 "to meet the emergency caused by the Mediterranean fly in the United States". It is against the risk of this pest that the Government has sought to protect the fruit and vegetable production of the United States, the enormous investments in which have no counterpart in the world, and, as you know, it was in that effort that a quarantine was established against Almeria grapes, which quarantine has figured conspicuously among the alleged Spanish grievances.

Thus far the presence of this pest is confined to the central district of Florida, but the Department is informed that unless it can be eradicated there before it shall have spread, it is possible that appropriations several times greater than the one just made may be required. You will observe, however, that the initial appropriation of \$4,250,000 exceeds by over a million dollars the total value of the Spanish grapes imported into the United States in the two years previous to

the establishment of the quarantine against them. (The value placed on the imports of grapes from Spain in 1922 was \$1,253,942, and in 1923 \$1,850,862. See report, dated February 7, 1924, from the American Consul General at Barcelona.)

It has been previously stated that the quarantine action which the United States has in the past been compelled to take for the protection of farms, orchards and forests has not been confined to action against foreign countries but has been taken just as drastically with respect to the territorial possessions of the United States, such as Hawaii, and also between the several states. The present situation arising from the existence of the Mediterranean fly in Florida affords an illustration in the prompt quarantine established by the Department of Agriculture against fruits from Florida.

With respect to the Spanish implication that the treatment of Argentine grapes has been less severe than that accorded to the Spanish produce, the following paragraph from a letter from the Secretary of Agriculture under date of June 17, 1927, furnishes explanation of the action taken:

“ . . . With respect to the action taken as to Argentina, it may be pointed out that there is no similarity with Argentina of the Spanish situation relative to the fruit product. Argentina is a country of great extent in latitude and if superimposed on the North American continent would extend from Canada to Central America. The provinces of Argentina from which fruit is permitted to be shipped to the United States are Central or Southern—in other words temperate zone provinces—and furthermore with respect to these provinces, technical surveys have established to the satisfaction of this Department that they are not now, and never have been, infested with fruit flies—Mediterranean or other. They are separated also from any known infested districts in the super-tropic or tropical portions of Argentina by hundreds of miles.”

I am [etc.]

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

611.5231/581 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, May 18, 1929—2 p. m.

26. Your despatch No. 1215, April 30, 1929. You are instructed to present to the Minister for Foreign Affairs a note in substance as follows:

“I have the honor to refer to Your Excellency’s note No. 93 [83] of April 26, 1929 concerning the commercial relations between Spain and the United States. I am instructed at the outset to express the most cordial reciprocation by the Government of the United States of the desire of His Majesty’s Government, so graciously expressed by Your Excellency, to pursue in the relations between our two countries a

policy of cordial and close friendship, and to add that the Government of the United States is confident that, viewed in this light, there can be no issues which friendly examination and discussion cannot resolve.

Careful consideration is being given to the contents of Your Excellency's note, to which the attention of the appropriate authorities at Washington has been drawn. At the present moment discussion of the proposed new tariff rates is continuing in the Congress and accordingly it is impossible for me at this time to make any definite response concerning difficulties which Your Excellency appears to anticipate. I venture to suggest, however, that informal discussion in the meantime of the other phases of Your Excellency's note cannot fail to clarify the situation."

[Paraphrase.] You should discuss alleged Spanish grievances on basis of Department's instruction of May 3. If the opportunity arises, you may discreetly suggest that any drastic action by the Spanish Government might have unfavorable reaction on American interest in the current expositions in Spain.

At a suitable opportunity you are authorized to give statement to the press along lines of above note, making use of such material in Department's instruction of May 3 as you deem advisable. [End paraphrase.]

STIMSON

ARRANGEMENT BETWEEN THE UNITED STATES AND SPAIN FOR THE SETTLEMENT OF RECIPROCAL CLAIMS

411.52R85/49

The Secretary of State to the Spanish Chargé (De Amoedo)

WASHINGTON, August 24, 1927.

SIR: The Ambassador's note of July 26, 1927,³² with further reference to the claim of the heirs of Señor Manuel Arias Brios, and to the suggestions made in my note of May 31, last,³² relative to the desirability of an informal consideration of such claims as either Government may now desire to bring to the attention of the other, was duly received and has had consideration.

With respect to His Excellency's request for a statement of the precise steps contemplated for the consideration of such claims, it is suggested (1) that each Government should submit to the other on or before a specified date in the near future, a list of the claims which each desires to urge for the consideration and allowance of the other, together with a brief statement of the facts. This Government would suggest that such lists should be exchanged by January 1, 1928. (2) Subsequently, at the expiration of an agreed period of time, say

³² Not printed.

three months, required for the examination of the claims presented, the two Governments should designate representatives, one each, to confer together in an effort to decide upon the merits of the claims, and, if possible to concur in conclusions as to the appropriate disposition to be made of each of the claims presented. (3) The claims which the representatives agree should be paid shall be referred by them to the respective Governments with their recommendations. (4) Cases in which the representatives do not agree or in which the recommendations of the representatives are not accepted by the two Governments might be disposed of by such further agreement as might at the time seem expedient.

Accept [etc.]

FRANK B. KELLOGG

452.11/216a

The Secretary of State to the Spanish Ambassador (Padilla)

WASHINGTON, May 13, 1929.

EXCELLENCY: Reference is made to this Government's note of August 24, 1927, to the Chargé d'Affaires ad interim of Spain concerning an arrangement for the informal consideration of claims of the United States against Spain and Spanish claims against this Government.

As no reply to this communication has been received this Government is uncertain as to the acquiescence of the Spanish Government in the suggestions made therein. As previously indicated this Government is desirous of settling all outstanding claims between the two Governments and is willing to submit for consideration by the Spanish Government a list of claims in which it feels that satisfaction should be made. Before proceeding to the preparation of such list, however, it desires to be informed whether the arrangement proposed in its note of August 24, 1927, is concurred in by the Spanish Government and whether that Government will submit a list of its claims to this Government for use in carrying out the purposes of the proposed arrangement.

It is understood that the claims referred to are distinct from those of American citizens and proteges which have arisen in that part of Morocco commonly known as the Spanish Zone and which were made the subject of a special arrangement through my predecessor's note of November 7, 1927,^{32a} and Your Excellency's note of February 1 [11], 1928,^{32b} in reply thereto.

Accept [etc.]

HENRY L. STIMSON

^{32a} *Foreign Relations*, 1927, vol. III, p. 273.

^{32b} *Ibid.*, 1928, vol. III, p. 346.

452.11/220

The Spanish Ambassador (Padilla) to the Secretary of State

[Translation]

No. 80/23

WASHINGTON, June 20, 1929.

MR. SECRETARY: With reference to Your Excellency's kind note of May 13, 1929, relating to the previous one of August 24, 1927, in which was expressed a desire on the part of the Government of the United States to arrive at a conclusion on the reciprocal claims now pending between Spain and North America, I have the honor to inform Your Excellency that I have received a telegraphic answer from Madrid informing me that the Government of His Majesty gladly agrees to begin a study of the case and to that end will send me by mail detailed instructions to start the work.

I avail myself [etc.]

ALEJANDRO PADILLA

**RECIPROCAL EXEMPTION FROM TAXATION AND CUSTOMS DUTIES
ON MOTOR VEHICLES BELONGING TO CONSULAR OFFICERS**

702.0652/8

The Secretary of State to the Ambassador in Spain (Hammond)

No. 439

WASHINGTON, August 16, 1928.

SIR: The Department refers to a despatch of January 31, 1928, addressed to it by the American Consulate General at Barcelona, Spain,³³ a copy of which despatch is understood to have been transmitted to your Embassy, relative to the taxation in Spain of motor vehicles owned by American consular officers.

Since it appears from the despatch above referred to that the automobile tax in Spain is a substantial one, there would seem to be little doubt that it should be considered rather in the light of a tax than that of a fee.

Article XV of the Treaty of 1902 between the United States and Spain³⁴ provides in part that:

"All consular officers, citizens or subjects of the country which has appointed them, . . . shall . . . be exempt from all National, State, Provincial and Municipal taxes except on real estate situated in, or capital invested in the country to which they are commissioned. . . ."

The Department considers that under the above mentioned Treaty provisions American consular officers in Spain should properly be exempt from taxation on automobiles owned by them. From the despatch under reference, it would seem that the Spanish Govern-

³³ Not printed.³⁴ *Foreign Relations*, 1903, pp. 721, 725.

ment does not take the stand that exemption should not be granted but insists on reciprocity as a requisite for granting it.

In bringing this matter to the attention of the Spanish Foreign Office you will advert to the foregoing considerations, adding that should any cases in which Spanish consular officers in the United States are taxed on automobiles owned by them be brought to the attention of this Government it will endeavor to uphold the right of Spanish consular officers to be exempt from taxation on account of their ownership of automobiles.

A copy of this instruction has been transmitted to the Consulate General and you are requested to advise it, as well as the Department as to the result of your representations to the Spanish authorities.

I am [etc.]

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

702.0652/11

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1031

SAN SEBASTIAN, September 20, 1928.

[Received October 6.]

SIR: Referring to the Department's instruction No. 439 of August 16th, last (File No. 702.0652/8) and to previous correspondence relative to taxation in Spain of motor vehicles owned by American consular officers, I have the honor to transmit herewith for the Department's information a copy of the Embassy's note No. 604 of August 29th last to the Spanish Government,³⁵ sent in compliance with the Department's instruction under acknowledgement, together with a copy and translation of the Spanish Government's reply in the premises, No. 281 dated September 12th, last.³⁵

As the Department will perceive, the Royal Spanish Foreign Office has refused the Embassy's request for the exemption of American consular officers in Spain from taxation on their motor vehicles on the ground that certain American States, notably: Wisconsin, Indiana, Minnesota and Pennsylvania, as well as the Philippine Islands and Porto Rico, refuse a like exemption to Spanish consular officers.

In view of the fact that the Spanish reply ignores the omission from the pertinent section of the United States-Spanish Treaty of 1902 of any provision for strict reciprocity, as well as the Department's undertaking to uphold the right of Spanish consular officers to be exempt from taxation on automobiles owned by them in all States of the Union, I have the honor to request the Department's further instructions in the premises.

I have [etc.]

OGDEN H. HAMMOND

³⁵ Not printed.

702.0652/18

The Secretary of State to the Ambassador in Spain (Hammond)

No. 544

WASHINGTON, May 3, 1929.

SIR: The Department refers to your despatch No. 1031 of September 20, 1928, concerning the exemption of American consular officers in Spain from taxation on their automobiles and notes that the Spanish Foreign Office has refused the Embassy's request in the premises on the ground that certain American States, notably: Wisconsin, Indiana, Minnesota and Pennsylvania, as well as the Philippine Islands and Porto Rico, refuse a like exemption to Spanish consular officers.

You are instructed to bring this case again to the attention of the Spanish authorities concerned and to inform them that according to information received from the War Department, Spanish consular officers in the Philippine Islands and Porto Rico are exempt from taxation on automobiles owned by them. The Department has also been informed by the Governor of Pennsylvania that the Motor Vehicle Code of that State exempts consular representatives from the payment of fees for the registration of motor vehicles owned and operated by them and that the Department of Highways of the State of Pennsylvania will be glad to exempt such persons from the payment of registration fees if they will furnish the authorities concerned with satisfactory evidence that they are entitled to exemption under an existing treaty. The Department has no record of any Spanish consular officers in Wisconsin, Indiana or Minnesota, these States apparently being within the consular jurisdiction of the Spanish Consul at Chicago, Mr. Antonio de la Cruz Marin. However, the Department communicated with the Governors of these States and copies of their replies are transmitted herewith,³⁶ from which you will observe that in the event that the Spanish Government should station Spanish consular officers in these States they would be exempt from taxation on their automobiles.

In view of the foregoing you will request the Spanish authorities concerned to give the necessary instructions in order that American consular officers in Spain may be exempt from taxation on automobiles owned by them and you will advise the Department as to the result of your representations in this matter.

I am [etc.]

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

³⁶ Not printed.

702.0652/19

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1276

MADRID, June 18, 1929.

[Received July 1.]

SIR: With reference to the Department's instruction No. 544 of May 3, 1929 (File No. 702.0652/15 [18]) concerning the exemption of American consular officers in Spain from taxation on their automobiles, I have the honor to transmit herewith a copy and translation of a note received from the Presidency of the Council of Ministers (Secretariat General of Foreign Affairs) in reply to the Embassy's representations in the matter, as well as a copy of the Embassy's reply to that note.

I have [etc.]

OGDEN H. HAMMOND

[Enclosure—Translation ⁸⁷]*The Secretary General of the Spanish Ministry for Foreign Affairs (Palacios) to the American Ambassador (Hammond)*

No. 108

MADRID, June 10, 1929.

EXCELLENCY: I have received Your Excellency's note No. 745 of the 16th of May, in which you state that in the Philippine Islands and Porto Rico exemption from payment of the tax on automobiles is granted to the vehicles belonging to the Spanish consular representatives, and also that the State of Pennsylvania exempts the automobiles belonging to the above-mentioned consular representatives from the payment of the tax of "registration" if evidence is furnished that they have the right to that exemption under an existing treaty, and, further, that the American States which do not now grant this concession to Spanish Consuls will exempt them in the future from the payment of the above-referred-to tax, and request, in consequence, that the Spanish authorities concede in Spain the "Patente Nacional de Circulacion de Automoviles gratuita" to the vehicles belonging to the consular representatives of the United States.

In reply I have the honor to inform Your Excellency that, if the Government of the United States concedes in all of the States which form the Union the exemption of the tax on automobiles, the "Patente de circulacion de Automoviles gratuita" will be conceded in Spain to the automobiles belonging to consuls of career of the United States, to obtain which it will be necessary for you to send to this Secretariat General a list of the vehicles which have the right to enjoy this favor and which should give the registration number, the name of the proprietor and his office.

However, and as in Your Excellency's note under reference in discussing the State of Pennsylvania you speak of the payment of the

⁸⁷ File translation revised.

fees of "registration", and also of the taxes on automobiles, it would be useful to know if these fees of "registration" include all the taxes which are assessed on automobiles, or if it refers only to the tax for listing or registration; because in Spain the benefits which are conceded to the consuls of the United States include all of the taxes which are assessed on automobiles.

Finally, and with reference to another statement which Your Excellency makes in your note, I take the liberty of stating that in virtue of article 15 of the Treaty of Friendship and General Relations between Spain and the United States of the 3rd of July, 1902, consular representatives of both countries are exempted from payment of all national, state, provincial and municipal taxes, and, consequently, under the terms of this Article the tax imposed on automobiles should be included and the consular representatives of both countries should enjoy it, and the State of Pennsylvania should extend the exemption of the tax on automobiles to Spanish consular representatives.

I avail myself [etc.]

E. DE PALACIOS

[Enclosure 2]

The American Ambassador (Hammond) to the President of the Spanish Council of Ministers (Estella)

No. 763

MADRID, June 18, 1929.

EXCELLENCY: With reference to note No. 108 of June 10, 1929 from the Presidency of the Council of Ministers (Secretariat General of Foreign Affairs) regarding the exemption of American consular officers in Spain from the payment of taxation on their automobiles, in which Your Excellency requests to be informed if the fees of registration include all of the taxes which are assessed on automobiles in the State of Pennsylvania, I have the honor to inform Your Excellency that the fee of registration is the only tax imposed upon automobiles in the State of Pennsylvania.

I avail myself [etc.]

OGDEN H. HAMMOND

TURKEY

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND TURKEY, SIGNED OCTOBER 1, 1929¹

611.6731/117

The Ambassador in Turkey (Grew) to the Secretary of State

No. 676

CONSTANTINOPLE, February 25, 1929.

[Received March 13.]

SIR: With reference to the Department's instruction No. 109 of December 26, 1928,² and to my telegram No. 12 of February 18, 6 p. m. from Angora,³ regarding the commercial relations between the United States and Turkey, I have the honor to inform the Department that I proceeded to the capital on February 15 and that on February 17 I discussed this question with the Minister for Foreign Affairs along the lines of the Department's instruction. A memorandum of the interview is enclosed herewith,³ as well as a copy of my telegram mentioned above.

From the memorandum of my conversation with the Minister it will be seen that after I had presented the desirability of negotiating an agreement by means of an exchange of notes of indefinite duration providing for mutual unconditional most-favored-nation treatment in customs matters, Tevfik Rüştü Bey⁴ said he regretted that it would be utterly impossible according to Turkish law for him to conclude an exchange of notes of that nature without a time limit, the Government possessing no legal authority for such procedure. On the contrary, the Government was specifically restricted by existing provisions of law in this respect. He said however that in view of my presentation of the point of view of the Government of the United States opposing a tariff-rebate treaty, he would meet our views to the extent of negotiating with the United States a brief and simple treaty according mutual unconditional most-favored-nation treatment in customs matters, with full appreciation of the fact that this treaty could not, probably, be ratified by the American Government before next December at earliest. In the meantime, he said, our present

¹ For previous correspondence regarding commercial relations between the United States and Turkey, see *Foreign Relations*, 1928, vol. III, pp. 950 ff.

² *Ibid.*, p. 962.

³ Not printed.

⁴ Also known as Tewfik Rouschdi Bey.

commercial *modus vivendi*,⁵ which expires on April 10, 1929, could be extended until January 1, 1930, because an article would be included in the new Turkish tariff law providing authority for such action. The Minister thought that the new Turkish tariff law would be enacted before April tenth, but if by any unforeseen circumstances this enactment should be delayed, he said that he would have a special law passed by the Grand National Assembly in order to permit the extension of our commercial *modus vivendi* until such time as the tariff law should be enacted. This *modus vivendi*, according mutual unconditional most-favored-nation treatment, would have reference to the present Turkish tariff until the expiration of the Allied Commercial Convention of Lausanne⁶ in August when the new Turkish tariff would apply. If the United States should be unable to ratify the simple treaty proposed by the Minister before January 1, 1930, the Turkish Government would make every effort to find means of still further extending our *modus vivendi*, first, because the Turkish Government desired to see no break in the continuance of the present commercial relations between Turkey and the United States and, second, because the Turkish Government is firmly determined to continue to accord to the commerce of the United States all advantages given to the commerce of other nations.

At this point in the conversation, the question arose in my mind as to whether I should immediately debate the matter on the basis of the arguments advanced in the Department's instruction in order to carry out its exact wishes, or whether I should seek further directions in view of the Minister's willingness to discard a tariff-rebate treaty in favor of a brief treaty giving mutual unconditional most-favored-nation treatment in customs matters, which seemed to me to be an important concession. As my instructions were not mandatory, it seemed to me wiser to make no mention at that moment of the risk of stirring up further anti-Turkish agitation in the United States through the negotiation of a formal treaty, but to await the Department's further instructions after consideration of the following observations which seem to me to be pertinent.

(1) The Minister's statement to me that the Turkish Government possesses no legal authority to conclude an agreement by means of an exchange of notes according mutual unconditional most-favored-nation treatment in customs matters without a definite time limit as to its duration appears to be sound. It is true that no legislative action was considered necessary for the conclusion of the general agreement between the United States and Turkey effected by the exchange of notes of February 17, 1927,⁷ certain provisions of which carry no time limit. On the other hand, the Grand National Assem-

⁵ See notes exchanged May 19, 1928, *Foreign Relations*, 1928, vol. III, pp. 953-954.

⁶ Signed July 24, 1923; League of Nations Treaty Series, vol. xxviii, p. 171.

⁷ *Foreign Relations*, 1927, vol. III, p. 765.

bly has restricted the authority of the Government in the conclusion of provisional commercial *modi vivendi* (see the laws of December 12, 1925, and April 10, 1927).^{*} This legislative action may readily be invoked by the Government as nullifying whatever authority it might have possessed to conclude by exchange of notes commercial agreements without time limits.

(2) There is little doubt that the Turkish Government could obtain from the Grand National Assembly the necessary legal authority for the conclusion by an exchange of notes of a commercial agreement unlimited as to time, if such action were in accord with the Government's policy and if it should desire to make such a recommendation to its legislative body.

(3) It does not appear, however, that such action is in accord with the Government's policy, nor, so far as I am aware, has such an agreement been concluded by the Turkish Government with any nation. It will remain to be seen, in case the Minister's present proposal is found by the Department to be unsatisfactory, whether further arguments will persuade Tefvik Rüstü Bey to alter his attitude towards the proposal contained in the Department's instruction No. 109. These further arguments could be advanced, if desirable, at the moment when the Minister proposes the commencement of treaty negotiations with the United States, presumably after the negotiations between Turkey and Italy shall have been concluded, or sooner. In the meantime, if the Department so desires, it appears from the statement of the Minister that there will be no difficulty in maintaining Turco-American commercial relations on a mutual unconditional most-favored-nation basis through a further exchange of notes from April 10, 1929, until January 1, 1930.

(4) The Department will be able to estimate the probable attitude of the Senate in the next Congress far better than the Embassy. I can hardly believe that a brief and simple treaty with Turkey according mutual unconditional most-favored-nation treatment in customs matters such as the Minister for Foreign Affairs has proposed to me, avoiding all controversial questions between the two countries, would fail of ratification nor that any anti-Turkish agitation which the negotiation of such a treaty might raise in the United States could make itself effectively heard. Nevertheless I recognize the fact that the risk must be considered and that a carefully balanced judgment must determine the wisdom or unwisdom of pressing for a commercial agreement without time limit by an exchange of notes instead of by a treaty.

(5) Our argument that a treaty should not now be negotiated because it could not be ratified by the United States until next December at the earliest has been effectively met by the Minister for Foreign Affairs by offering to extend our present commercial *modus vivendi* until January 1, 1930. Furthermore, the Minister gave way on the question of a tariff-rebate treaty, thereby indicating a desire to meet our views. There remains in the Department's instruction

^{*}Excerpt from the Law No. 691 of December 12, 1925: "Provisional agreements are effective for a maximum period of six months and can be renewed a second time, by decision of the Council of Ministers". Excerpt from the Law No. 1005 of April 10, 1927: "While awaiting the conclusion and ratification of a definite treaty of commerce with any foreign State, the Council of Ministers is authorised to conclude, with that State, provisional agreements for a period not exceeding two years". [Footnote in the original.]

only the argument on page 2, namely that while the opposition in the United States to the American-Turkish Treaty of August 6, 1923,⁸ which led to its disapproval by the Senate has doubtless decreased and will eventually disappear, it is believed that, with a view to avoiding any action that might encourage further anti-Turkish agitation in the United States and thus perhaps compromise the growing sentiments of friendliness toward Turkey, it would be preferable to postpone for the time being the negotiation of a further formal treaty with Turkey.

(6) There can be no doubt that the risks of using, or at any rate of pressing, the foregoing argument with the Minister for Foreign Affairs are considerable and that they should not be used unless the Department believes that serious risk exists of encountering another rebuff in the Senate through the submission of the brief and simple type of commercial treaty set forth above. The Turkish Government is intensely sensitive as to its prestige. It has negotiated or is about to negotiate commercial treaties with all the other nations. It stomached the first rebuff administered by the American Senate, no doubt through the astuteness of the Turkish Government in recognizing the fact that it was both to its material and moral interest to pocket its pride rather than to place further weapons in the hands of its opponents in the United States. This attitude was facilitated by the friendly action of the Government of the United States in proposing the resumption of diplomatic relations and the exchange of Ambassadors.⁹ But if the Minister for Foreign Affairs should now be called upon to go before the Council of Ministers and then before the Grand National Assembly to seek authority to make a single exception to his treaty program in the case of the United States, by concluding a commercial agreement through an exchange of notes without a time limit, on the ground that the United States is unwilling to negotiate a formal treaty with the Turkish Government, I believe that grave resentment might be evoked which would seriously injure the present friendly attitude of Turkey towards the United States and find its expression in many concrete ways. My entire staff, including Consul Allen¹⁰ and Mr. Gillespie,¹¹ with whom I have conferred at length on this subject, emphatically share this view.

(7) I therefore respectfully recommend that the Department, in formulating its further instructions to me, should give consideration to the following points:

(a) Is there appreciable risk that the United States Senate, taking into consideration its political complexion in the next Congress, might refuse to give its advice and consent to the ratification of a brief and simple treaty with Turkey according mutual unconditional most-favored-nation treatment in customs matters when such a treaty would materially benefit American exporters to Turkey?

(b) Is there appreciable risk that the announcement of the negotiation of such a treaty would stir up anti-Turkish agitation in the United States of any consequence?

(c) If so, do these risks appear to the Department to predominate over the alternative risk of alienating the present friendly attitude

⁸ *Foreign Relations*, 1923, vol. II, p. 1153.

⁹ See *ibid.*, 1927, vol. III, pp. 765 ff.

¹⁰ Charles E. Allen, Consul at Constantinople.

¹¹ Julian Gillespie, Commercial Attaché.

of the Turkish Government toward the United States through pressing for exceptional machinery to regulate our commercial relations on the ground that we are unwilling to negotiate a formal commercial treaty with the Turkish Republic?

I trust that the Department, after its receipt of this despatch, will instruct me by telegraph on the following points:

(1) Whether the Department desires me to continue to press for an exchange of notes without time limit, in lieu of another temporary *modus vivendi*, explaining that we are unwilling now to negotiate a treaty and using the arguments contained on page 2 of the Department's instruction No. 109 of December 26, 1928; or

(2) Whether the Department desires me to endeavor to obtain a temporary extension of our present commercial *modus vivendi* until January 1, 1930, while postponing the negotiation of a treaty for the present or until the sentiment of the Senate in the next Congress can be ascertained; or

(3) Whether the Department is willing to accept the proposal of the Minister for Foreign Affairs to negotiate a brief and simple treaty of commerce between the United States and Turkey according mutual unconditional most-favored-nation treatment in customs matters, meanwhile extending our present commercial *modus vivendi* from April 10, 1929 until January 1, 1930.

I earnestly hope that the Department's estimate of the potential political situation in the United States may justify the Department in discarding the procedure under point 1 next above, for the reasons which I have set forth in this despatch.

The procedure set forth in point 2 would be in the nature of a compromise. It might be possible to arrange for the extension of our present temporary commercial agreement from April 10, 1929, until January 1, 1930, before informing the Minister for Foreign Affairs of our intention to postpone the negotiation of a treaty. But if I should exchange notes for a new temporary commercial *modus vivendi* without informing the Minister of our further intentions, he would clearly be taking this action in the full expectation of the early negotiation of a treaty and might readily charge me with bad faith when he should find that this was not our intention. On the other hand, if I should first inform the Minister that it was our desire to postpone for the present the negotiation of a treaty, the reasons for our attitude would have to come out, with the risk of evoking the resentment above mentioned which, at least conceivably, might cause the Council of Ministers to refuse to prolong our present commercial relations after April 10, merely through a sense of injured prestige. This risk is problematical but must be reckoned with.

I cannot too strongly emphasize the advantages, as I see them from this angle, of adopting the procedure set forth in point 3. The offer of the Turkish Government to solve the problem in this way—namely by a

brief and simple treaty according mutual unconditional most-favored-nation treatment in customs matters and with a new *modus vivendi* providing time for ratification—is a more favorable offer than I had expected. Should the Department find in December that sentiment in the Senate rendered it inadvisable to submit the treaty at that moment for the Senate's consideration, the Turkish Government might well be persuaded to seek legislation which would permit still further a continuation of our commercial relations uninjured. In other words, I believe that delay in obtaining ratification of a treaty would probably create a less unfavorable impression upon the Turkish Government than would a refusal on our part to negotiate any commercial treaty at all.

Furthermore, should such a simple and advantageous commercial treaty be approved by the Senate, would this not favorably pave the way for the eventual submission to that body of other instruments effectually regularizing the general relations between the United States and the Turkish Republic?

In determining the relative merits of the three procedures outlined above, the Department will of course give full weight to the powerful leverage which we have in our hands, the importance of which I do not at all underestimate, namely that Turkey cannot afford, either from the material or the moral point of view, to antagonize the Government of the United States. Apart from Turkey's important trade with the United States, her exports to the United States being three to four times as great as the exports of the United States to Turkey, the Turkish Government knows that when the time comes to seek capital and other assistance abroad, it will instinctively turn to the United States as the politically most disinterested Power, and the Power of whose motives Turkey has less suspicion than of the motives of any other Power. Apart from this element, the moral effect of a commercial break with the United States would be damaging to Turkey's prestige.

Thus far there has been no debate with the Minister for Foreign Affairs—merely an exchange of views. If therefore the Department feels that its own proposal is distinctly more desirable from the point of view of American interests than the proposal of Tefvik Rüşti Bey, in spite of the important concession already obtained from him in the type of treaty proposed, I am fully prepared to press the Department's wishes with every available argument, based on the underlying leverage which I have set forth above, in order to further what the Department may conceive to be the best interests of the United States Government.

Respectfully requesting telegraphic instructions on the foregoing points,

I have [etc.]

JOSEPH C. GREW

611.6731/117 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, March 18, 1929—2 p. m.

15. (1) The Department appreciates particularly your tact and skill in initiating the negotiations which were contemplated by its instruction No. 109, December 26, 1928.

(2) The procedure which you outline under point 3 in your despatch No. 676, February 25, 1929, is acceptable to the Department.

(3) You may, therefore, confidentially inform the Turkish Minister for Foreign Affairs that the United States Government is agreeable to negotiations with Turkey in the immediate future for a short and simple commercial treaty providing for the several matters which were covered by the draft note¹² sent you as an enclosure in the Department's No. 109 and probably much in the same language. The consent of the United States for the negotiation of a short and simple commercial treaty is given, of course, on the understanding that it will be possible to obtain, presumably through an exchange of notes with the Turkish Government, a continuation for the period from April 11 to December 31, 1929, of most-favored-nation treatment in customs matters.

The precise manner of conveying the above to the Turkish Minister for Foreign Affairs is entirely left to your discretion.

(4) For your consideration and general guidance, there are set forth the following observations:

(a) The need for great caution in the present negotiations is suggested by the marked propensity of the Minister for Foreign Affairs to promise more than he is able to deliver;

(b) It is not desired by the Department to negotiate a treaty which covers anything more than is found in the draft note mentioned. Especially would an attempt at inclusion of a reference to the general treaty relations between the United States and Turkey be unwelcome (in this connection, see your despatch No. 641, January 16, 1929, enclosure 3¹²);

(c) Premature publicity is to be carefully avoided concerning American willingness to negotiate a commercial treaty with the Turkish Government.

(5) You will shortly be instructed by the Department, probably telegraphically, regarding the exact language and form of the proposed commercial treaty.

(6) On April 15 there will convene an extra session of Congress, primarily to consider farm relief and tariff questions. At present

¹² Not printed.

the indications are that a proposed new tariff bill will be presented about April 22. Since in its initial form this bill may provide for higher duties on carpets and figs, thus arousing Turkish resentment, might it not be well to try to have treaty and notes signed prior to April 22?

(7) You will please keep the Department informed fully by telegraph, particularly respecting the progress and pertinent provisions of Turkey's new tariff law and in due course also the language proposed for the exchange of notes extending until December 31, 1929, the present commercial *modus vivendi*.

KELLOGG

611.6731/119 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, March 24, 1929—11 a. m.

[Received 10:20 p. m.]

17. Department's 15, March 18, 2 p.m.

1. The Minister for Foreign Affairs now informs me that in order to convenience the Government of the United States to the greatest possible extent and to allow ample time for the ratification of a brief commercial convention he will be prepared on April 4th, the day before his departure for Geneva, to conclude with us by exchange of notes a new *modus vivendi* according mutual unconditional most-favored-nation treatment in customs matters for one calendar year from April 10, 1929. A prominent deputy informs me that the Minister recently obtained authorization from the Grand National Assembly for this step, stating that he desired it for the specific purpose of conveniencing the United States.

2. The Minister proposes that we adopt the identical texts of the notes exchanged on May 19, 1928, with the following modifications: (See text of note in enclosure 1, despatch 320 of May 22, 1928,¹³ for comparison.)¹⁴

(a) Line two substitute "en attendant la conclusion et la mise en vigueur d'une convention de commerce, mon Gouvernement consent."

(b) Line five substitute "pendant un délai de douze mois à partir du 10 Avril, 1929, sera appliqué."

(c) Line twelve substitute "du traitement de la nation la plus favorisée."

(d) The same modifications would be made in lines 2, 5 and 20 of the text of the note in enclosure 2 same despatch.¹⁵

¹³ *Foreign Relations*, 1928, vol. III, p. 953.

¹⁴ This was the French text signed by the Turkish Minister for Foreign Affairs.

¹⁵ French text signed by the Ambassador in Turkey.

3. [Paraphrase.] The Minister explains that it is his wish to omit any reference to the Allied commercial convention signed July 24, 1923, at Lausanne, since it is not his wish to accord the treatment which is therein provided to the countries with which he is going to negotiate tariff-rebate treaties. By enjoying most-favored-nation treatment, however, the United States will continue profiting until January, 1930, by the favorable provisions in the Turco-German commercial convention.¹⁶

4. Regarding negotiating a commercial convention, the Minister expressed the view provisionally that its text can contain the several points which the Department mentioned and no other points, but he states his inability to commit himself before he consults his experts.

5. In view of the Minister's departure April 5, to be absent for at least one month, it will be impossible to negotiate and sign a commercial convention before April 22. Yet he has committed himself so completely to negotiating a brief most-favored-nation commercial convention, and he has assured me so definitely and repeatedly of the Turkish Government's firm intention to accord to the United States every commercial privilege which is extended to any other nation that he would not be able now to withdraw from this position without completely breaking faith, no matter what the provisions may be in the proposed new American tariff bill. Besides, the new Turkish tariff law undoubtedly will raise the duties on certain automobile classes and perhaps on other American exports.

6. With the new Turkish tariff bill still in committee in the Assembly, and with no information obtainable as to either its final form or the likely date of its enactment, I hope, nevertheless, to have a copy in a few days of the provisional text. If so, I shall report any pertinent provisions by telegram. I understand from the Finance Ministry that few American imports are involved in the revised duties.

7. The German and Italian Ambassadors have both been informed already by the Minister for Foreign Affairs that he has completed his negotiations for a commercial convention with the United States, and this is the general belief in Angora and Constantinople. I do not anticipate, however, and I can probably arrange to avoid, any premature press publicity. The Minister has promised to consider the matter as confidential hereafter.

8. Telegraphic instructions concerning paragraph 2 are requested. [End paraphrase.]

GREW

¹⁶ Signed at Angora, January 12, 1927; League of Nations Treaty Series, vol. LXXIII, p. 133. Denunciation by Turkey effective as from February 4, 1930; *ibid.*, vol. XCII, p. 402.

611.6731/119: Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, March 27, 1929—3 p. m.

17. You are authorized, in accordance with the procedure you outlined in your 17, March 24, 11 a. m., paragraph numbered 2, to proceed with a new exchange of notes.

KELLOGG

611.6731/120: Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, April 3, 1929—2 a. m.

[Received 5:04 a. m.]

22. Department's 17, March 27, 3 p. m. Referring to paragraph 2, subheading (a), my telegram No. 17, March 24, 11 a. m.

Foreign Office has altered phrase "convention de commerce" to "convention de commerce et de navigation" in the Turkish note and requests that the American note shall read likewise.

[Paraphrase.] At first sight this might appear to be a last-minute maneuver to lead us into negotiating a treaty to replace the 1830 treaty of commerce and navigation.¹⁷ In view, however, of the definite and categorical assurances by the Minister for Foreign Affairs to me of his willingness to negotiate only a brief and simple commercial treaty with the United States, it seems more probable, I think, that the proposed alteration merely is for the purpose of conforming to the text of the new Turkish law enacted April 1 by the Assembly to authorize the Turkish Government to conclude new commercial *modi vivendi*. I expect shortly to see the text of this law and will immediately telegraph its pertinent provisions.¹⁸ If the law does refer to "conventions of commerce and of navigation," in all probability it was worded thus for the purpose of applying to the treaties Turkey is about to negotiate with the signatories of the Lausanne allied commercial treaty. The proposed phrase does not, in any case, seem to involve the United States in any definite commitment regarding the terms of any treaty or treaties ultimately to be negotiated by the United States any more than did our last *modus vivendi* commit us to ratification of the American Lausanne treaty of August 6, 1923.¹⁹

In view of the categorical assurances by the Minister to me (see my 17), it seems to me desirable to accept the alteration and then to

¹⁷ Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 3, p. 541.

¹⁸ Telegram 23, April 3, 1929, noon, not printed.

¹⁹ *Foreign Relations*, 1923, vol. II, p. 1153.

proceed to exchanging notes; this allows a whole year for negotiation of the type of treaty which the United States desires and does not jeopardize existing commercial relations because of what well may be a quibbling intended to conform with the new law.

It is the Minister's present intention to leave Angora on April 7. I am departing for Angora at once tonight and shall arrive there the morning of April 4 in order that I might seek the personal explanations of the Minister. May I request the Department, meanwhile, to instruct me telegraphically direct to Angora. Should the alteration be approved, the exchange of notes probably can take place at once. If approval is not forthcoming, I shall endeavor to hold the Minister for Foreign Affairs to our original understanding, a perfectly clear and definite one. [End paraphrase.]

GREW

611.6731/120 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew) ²⁰

[Paraphrase]

WASHINGTON, April 3, 1929—6 p. m.

1. Your 22, April 3, 2 a. m.

(1) There appears to be no fundamental objection to referring to convention of commerce and navigation, which the Turkish Foreign Office proposed.

(2) If, in your opinion, any useful purpose would be served, in your discretion you may orally state to the Minister for Foreign Affairs that the addition proposed now by the Foreign Office is presumed to be merely a matter of convenience for the Turkish Government and indicates no disposition to modify the willingness expressed by the Minister to negotiate with the United States a brief and simple commercial treaty. In your discretion you may also add that you communicated at once the remarks of the Minister on this subject to your Government and are aware that they have been duly noted.

STIMSON

611.6731/122 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, April 4, 1929—5 p. m.

[Received April 4—4 p. m.]

2. Department's 1, April 3, 6 p. m. Minister for Foreign Affairs confirms my supposition that proposed alteration in texts of notes is merely to conform to the texts of notes to be exchanged with other powers. He again confirms our understanding that we shall nego-

²⁰ Telegram sent to Angora.

tiate a brief and simple commercial convention of the type already agreed upon and states that our negotiations may commence at any moment agreeable to the United States Government.

The *modus vivendi* notes cannot be exchanged until the new law has been promulgated, which will probably be within a few days. In any case the Minister promises to give immediate instructions to the customs authorities to accord to us most-favored-nation treatment after April 10th. I return to Constantinople tonight.

GREW

611.6731/125 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, April 9, 1929—11 a. m.

[Received April 9—8:55 a. m.]

24. My 2, April 4, 5 p. m., from Angora. Exchange of notes putting into effect commercial *modus vivendi* between the United States and Turkey for one year from April 11th, 1929, took place yesterday afternoon. Customs authorities throughout Turkey telegraphically notified from Angora.

GREW

611.6731/126

The Ambassador in Turkey (Grew) to the Secretary of State

[Extracts]

No. 706

CONSTANTINOPLE, April 10, 1929.

[Received April 25.]

SIR: With reference to my mail despatch No. 676 of February 25, 1929, concerning our negotiations for a new commercial *modus vivendi* with the Turkish Government, I have the honor in the present despatch to set forth the various developments which have occurred up to date. It will be perceived therefrom that with every effort on the part of the Embassy to conclude the matter in the exact form desired by the Department, it has not been possible to keep the Foreign Office in line with the clear and precise oral understanding between the Minister for Foreign Affairs and myself. I ascribe these difficulties to the meticulous attitude of the Turkish experts in matters of phraseology and to the general vagueness and lack of precision of Tevfik Rüşti Bey. There does not appear, however, so far as I can now see, to have been any deliberate attempt on the part of the Foreign Office to mislead us in the negotiations. If such was the case, the matter has now been clarified and left in perfect order by my interview with the Minister for Foreign Affairs in Constantinople today as reported below.

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As the announcement of our exchange of notes was sure to appear in the Turkish press shortly, and possibly as is often the case in garbled form, I thought it best to make the announcement to the local American press correspondents myself without delay and I handed to them the following statement in order that there might be no error. Had the correspondents taken the information from the Turkish press there would have been every probability of error.

“Notes between Ambassador Grew and the Turkish Minister for Foreign Affairs Tevfik Rüştü Bey were exchanged in Angora yesterday renewing the commercial *modus vivendi* between the United States and Turkey for one year from April 11, 1929, the date on which the present agreement expires. The new agreement is similar to the present one and accords mutual most favored nation treatment in customs matters.”

On the afternoon of April 9, I received Mr. Patterson’s letter of the 8th, a copy of which is enclosed herewith,²¹ from which it will be seen that the text of the note signed by the Minister for Foreign Affairs contains certain alterations in phraseology from the text definitely agreed upon between the Minister and myself. Mr. Patterson stated further that after due consideration he had come to the conclusion that the verbal alterations in no way changed the meaning of the note, so that he consented to the exchange on my behalf after inviting Fuat Simavi Bey’s²² attention to the alterations. Fuat Simavi Bey expressed his belief that the alterations were not changes in the sense of introducing any new meaning into the notes exchanged. Mr. Patterson added that should the Embassy not concur in this view he had no doubt that a revision could be effected.

I need hardly say that these last minute alterations of the text as orally but specifically agreed upon by the Minister and myself caused me great annoyance . . . Nevertheless, after comparing the altered phraseology in the Minister’s note with the phraseology approved by the Department and contained in my own note, I cannot see that the changes modify the meaning of the original draft or its intention. The only points which might conceivably be regarded as a material alteration are the following:

In the texts of the notes exchanged on May 19, 1928, the “countries detached from the Ottoman Empire following the War of 1914” were grouped collectively as a single unit whereas the American dependencies, Cuba and the Panama Canal Zone, were treated separately by the use of the word “or” instead of “and” directly preceding the words “the Panama Canal Zone”. Possibly the Foreign Office believed that this phraseology gave us a certain theoretical advantage and therefore in the new text of the Minister’s note “the countries detached

²¹ Note not printed. Jefferson Patterson was Second Secretary of Embassy.

²² Chief of the Commercial Section of the Turkish Foreign Office.

from the Ottoman Empire" have been individualized by altering the phrase to "any one of the countries detached from the Ottoman Empire", while the corresponding American special interests appear to have been dealt with *en bloc* by the substitution of the word "and" for "or" directly preceding the phrase "the Panama Canal Zone". As matters now stand after yesterday's exchange of notes, the Turkish Government maintains in its note that the provisions of the *modus vivendi* will not apply to any special advantages which the Turkish Government may accord to its commerce with *any one of* the countries detached from the former Ottoman Empire, while we maintain in our note that the provisions of the *modus vivendi* will not apply to any exceptional treatment which we may accord to the dependencies of the United States, Cuba *or* the Panama Canal Zone.

So far as I can see, the new situation does not involve the surrendering of any right which we possessed under our last *modus vivendi* or that we intended to possess under the present one. It appears to me that the Turks have been unnecessarily meticulous in securing by the new phraseology what they seem to consider a more equal and exact balance in the special rights claimed respectively by the two countries but I do not see that the change gives them any material advantage whatever. I therefore feel that Mr. Patterson's action in accepting the Turkish note, while inviting Fuat Simavi Bey's attention to the fact that unexpected alterations had been made, was justified, and he has my approval of his action.

Nevertheless the mere fact that these alterations had been made without my concurrence in advance was troublesome, even if not serious, and I accordingly sought an interview this morning with Tevfik Rüştü Bey during his few hours' stay in Constantinople en route from Angora to Geneva. Enclosed herewith is the memorandum of my conversation with the Minister,²³ from which it will be seen that Tevfik Rüştü Bey expressed surprise, which was clearly genuine, that any alterations at all had been made in the text. . . . The Minister then examined the alterations that had been made and said that he could not see that there had been any possible change in meaning or intent from the text which we had agreed upon. He gave me his explicit assurances that there would be no alteration in meaning or application but that if my Government so desired he would, on his return to Angora, replace this note with another note couched in the exact phraseology which we had agreed upon. On my referring again to the insertion of the phrase "and navigation" following the phrase "convention of commerce", he said that frankly he saw no good reason for the insertion and that, although these treaties were generally referred to as treaties of commerce and navigation, the phrase

²³ Not printed.

nevertheless did not represent the type of treaty which we had agreed to negotiate, namely, a convention of commerce only. He would therefore be perfectly willing if we so desired to eliminate the words "and navigation", but he frankly did not think that they made any difference whatever in the sense of the notes. The Minister added that I could count upon him never to place me in a difficult or embarrassing position and that once we had come to an oral agreement on any issue he would see that no alteration in the sense of such agreement should be made in the manner of its recording.

If the Department finds the alterations in phraseology in the Minister's note to be undesirable, I shall be prepared to take up the matter with Tevfik Rüştü Bey, on the basis of his promise today, immediately after his return to Turkey, but if no fundamental objection to them is perceived by the Department it would perhaps be preferable to leave matters as they are.

As for the negotiation of a commercial convention, the Minister for Foreign Affairs has informed me that these negotiations can take place at our entire convenience, even, if desired, at the same time as his negotiations with the Italians. The Minister's present plans are to be absent from Turkey for five or six weeks which would bring him back to Angora about the middle of May. If the Department desires to send me before that date the proposed draft treaty mentioned in its telegram No. 15 of March 18, 2 p. m., I have little doubt that the negotiations can commence soon after the Minister's return.

I enclose herewith the original signed note of the Minister for Foreign Affairs as well as a copy of my own note as they were exchanged in Angora on April 8, 1929. It has seemed to me best to send these many enclosures in order that the record of the Department may be complete.

I have [etc.]

JOSEPH C. GREW

[Enclosure 1—Translation *]

The Turkish Minister for Foreign Affairs (Tevfik Rüştü) to the American Ambassador (Grew)

No. 62318-12

ANGORA, April 8, 1929.

EXCELLENCY: I have the honor to inform Your Excellency that pending the concluding and the coming into force of a treaty of commerce and navigation, my Government, with the object of determining the régime which, for twelve months beginning on April 10, 1929, shall apply to the commerce between Turkey and the United States of America, agrees that the products of the soil and industry of the United States of America and coming therefrom, imported into Turk-

* File translation revised.

ish territory and intended for consumption or reexportation or transit shall enjoy, during the time above stated, the treatment of the most-favored nation. The provisions of this arrangement do not apply to the advantages granted by Turkey to the commerce between it and the countries detached from the Ottoman Empire following the War of 1914, nor to the border traffic with the limitrophe states.

It is understood that the application of this provisional régime is conditioned on the United States of America applying, during the period stated, to the products of the soil and industry of Turkey and coming therefrom the treatment of the most-favored nation. The provisions of this arrangement do not apply to the treatment granted by the United States of America to the commerce of its dependencies, Cuba and the Panama Canal Zone.

Be pleased [etc.]

DR. T. RÜŞTÜ

[Enclosure 2—Translation ²⁵]

The American Ambassador (Grew) to the Turkish Minister for Foreign Affairs (Tevfik Rüştü)

ANGORA, April 8, 1929.

EXCELLENCY: I have the honor to inform Your Excellency that pending the concluding and the coming into force of a treaty of commerce and navigation, my Government, with the object of determining the régime which, for twelve months beginning on April 10, 1929, shall apply to the commerce between the United States of America and Turkey, agrees that the products of the soil and industry of Turkey and coming therefrom imported into the territory of the United States of America and intended for consumption or reexportation or transit shall enjoy, during the time above stated, the treatment of the most-favored nation. The provisions of this arrangement do not apply to the treatment granted by the United States of America to the commerce of its dependencies, Cuba or the Panama Canal Zone.

It is understood that the application of this provisional régime is conditioned on Turkey's applying to the products of the soil and industry of the United States of America and coming therefrom, the treatment of the most-favored nation. The provisions of this arrangement do not apply to the treatment granted by Turkey to the commerce between it and the countries detached from the Ottoman Empire following the War of 1914, nor to the border traffic with limitrophe states.

Be pleased [etc.]

JOSEPH C. GREW

²⁵ File translation revised.

611.6731/128

The Ambassador in Turkey (Grew) to the Secretary of State

No. 727

CONSTANTINOPLE, April 27, 1929.

[Received May 21.]

SIR: With reference to my despatch No. 706 dated April 10, 1929, I have the honor to transmit herewith copy and translation of a note received from the Foreign Office²⁶ naming the Turkish Delegation charged with the forthcoming commercial negotiations between Turkey and the foreign powers and requesting those powers to designate for their part the names of their own delegates and to proceed immediately to the negotiation of new commercial agreements in order that the commercial relations between Turkey and foreign nationals will not be impeded as a result of the application of new tariff measures.

So far as the United States is concerned it is understood between the Minister for Foreign Affairs and myself that we shall proceed to the negotiation of a brief and simple commercial convention, according mutual unconditional most favored nation treatment in customs matters, after his return from abroad about the middle of May. I presume that at that time it will be desirable for me to inform the Minister of my technical assistants who will negotiate with the Turkish Delegates the details and phraseology of the proposed convention. In case this should become necessary I recommend that the names of Mr. Julian E. Gillespie, Commercial Attaché, and Mr. Jefferson Patterson, Second Secretary of Embassy, representing the Embassy in Angora, be submitted to the Foreign Office together with my own name and I respectfully request the Department to telegraph directions on this point provided that the Department's detailed instructions concerning the desired text of the proposed convention shall already have been forwarded to Constantinople prior to the receipt of this despatch.

In accordance with the three weeks' sick leave granted me, I propose to leave for Vienna on April 29 and to return to my post between the fifteenth and twentieth of May, which will presumably be at about the same time as the return of Tevfik Rüstü Bey. If the Department so desires, the negotiations can probably commence at any time after that date. There appears to be no particular necessity for haste although it would be preferable to have them concluded, if possible, before the hot weather commences in Angora.

I have [etc.]

JOSEPH C. GREW

²⁶ Not printed.

611.6731/126

The Secretary of State to the Chargé in Turkey (Ives)

No. 146

WASHINGTON, May 17, 1929.

SIR: The Department has received and read with interest the Embassy's despatch No. 706 of April 10, 1929, transmitting the original signed note of the Turkish Minister for Foreign Affairs and a copy of Mr. Grew's note as they were exchanged in Angora on April 8, 1929, and which accord mutual most-favored-nation treatment in customs matters for a further period of one year from April 11, 1929.

The Department fully appreciates the difficulties which attended the negotiations preceding the present exchange of notes and has noted with satisfaction the skillful manner in which this matter was handled.

The notes as signed on April 8, 1929, appear adequately to fulfill the purpose which they were intended to serve, and the Department perceives no fundamental objection to the alterations in phraseology in the Foreign Minister's note. It is therefore not deemed necessary that the alterations be further discussed with the Turkish authorities.

I am [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

611.6731/131 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, June 6, 1929—11 a.m.

[Received June 6—7:44 a.m.]

37. Reference my despatch No. 727, April 27. It appears from recent conversations in Angora that, although both the Turkish Minister for Foreign Affairs and the Turkish chairman of their treaty delegation recognize that the proposed negotiations with the United States envisage only a simple convention, not a comprehensive treaty of commerce, they would like, nevertheless, to have included in it the mutual application of most-favored-nation treatment to both customs matters and navigation. I hope, therefore, the Department, in formulating its instructions, will inform me regarding its views upon this question, in order that I may be ready at the start of negotiations to take a definite position. Should the Department not desire reference to navigation, I shall, of course, hold the Turkish Minister for Foreign Affairs to his original oral agreement with me, covering customs matters exclusively.

GREW

711.672(1929)/6

The Secretary of State to the Ambassador in Turkey (Grew)

No. 167

WASHINGTON, August 6, 1929.

SIR: Reference is made to your telegram No. 17 of March 24, 11 a.m., 1929, and to the Department's telegraphic reply No. 17 of March 27, 3 p.m., concerning the proposal of the Turkish Government to conclude with this Government, by an exchange of notes, a new *modus vivendi* according mutual most-favored-nation treatment in customs matters in order to allow this Government ample time to secure the ratification of a brief commercial convention the conclusion of which the Turkish Minister for Foreign Affairs, as set forth in your despatch No. 676 of February 25, 1929, suggested to you on February 17, 1929, and to which the Department assented in its telegram No. 15 of March 18, 2 p.m., 1929.

The Department has meanwhile noted your telegram No. 37 of June 6, 11 a.m., 1929, reporting the desire of the Turkish Minister for Foreign Affairs and of the Chairman of the Turkish Treaty Delegation that there be included in the present short treaty a provision for the mutual application of most-favored-nation treatment to navigation as well as to customs matters.

While the above suggestion of the competent Turkish authorities is contrary to the verbal understanding previously arrived at between you and the Turkish Minister for Foreign Affairs regarding the scope of the treaty to be negotiated, the Department has, after a careful study of the situation, decided to accommodate the Turkish Government in this matter and encloses herewith for your consideration and presentation at an appropriate time a short draft treaty of commerce and navigation which this Government would be pleased to negotiate with the Government of Turkey. A Full Power to sign such a treaty is also enclosed.²⁷ However, for reasons fully set forth in a memorandum of July 20, 1929 from the Solicitor, of which a copy is enclosed,²⁷ the Department has considered it necessary that the article covering navigation in the proposed treaty should provide for national as well as most-favored-nation treatment in all that concerns the vessels of both countries, exception being made of coastwise shipping which shall enjoy most-favored-nation treatment only.

As you will note from Article III of the enclosed draft text incorporating the above stipulations, provision has been made that, after one year from the date of the exchange of ratifications, the mutual obligations regarding the national treatment of vessels contained in paragraph (a) of Article III "may be terminated by either

²⁷ Not printed.

party on ninety days' notice and shall cease sixty days after the enactment of inconsistent legislation by either High Contracting Party."

While there would appear to be little likelihood that the above cited provision of Article III would ever be invoked during the life of this treaty, the Department has deemed it expedient, in preparing the present draft, to take into consideration the well-known views of the Senate on the subject of national treatment of foreign shipping as evidenced by its reservation to the Treaty of 1923 with Germany.²⁸ Bearing this fact in mind, the Department has, in the case of treaties of commerce and navigation negotiated in 1925, 1927, and 1928 with Esthonia, Honduras and Latvia, respectively, copies of which are enclosed for your consideration,²⁹ incorporated in the texts of the treaties themselves the substance of the above-mentioned Senate reservation to the Treaty with Germany. It has been thought advisable to resort to this apparently necessary expedient in the above cases in order to avoid the more objectionable procedure of a Senate reservation. Particularly in the case of a treaty with Turkey at the present time would the present expedient appear to be advisable, since any reservation attached to the treaty by the Senate might encourage the Grand National Assembly to attach in turn reservations of a more delicate nature.

It may be added in this connection that the Department is endeavoring to induce the Senate to recede from its present position with regard to the national treatment of foreign vessels. Pending, however, a reversal of the Senate's views on this subject, the Department has no other alternative than that resorted to in the present draft treaty. Inasmuch, however, as all the countries with which the United States has recently negotiated treaties of commerce and navigation have accepted in substance the proviso contained in Article III of the present draft treaty, the Department trusts that you will be able to overcome any feeling on the part of the Turks that the provision in question is in any way unusual or that the Department, in proposing it, has considered it necessary in the particular case of Turkey. The Department leaves entirely to your discretion the procedure and arguments which you may deem it desirable to utilize in overcoming any objections, such as the above, which the Turkish authorities may offer to the draft treaty in its present form.

As will be noted from the concluding paragraph of Article III of the present draft, provision is made for the treaty to be drawn up in duplicate in the English and Turkish languages, the assumption being that both texts are to be binding in case of dispute. It is therefore

²⁸ Treaty of December 8, 1923, *Foreign Relations*, 1923, vol. II, p. 29; for Senate reservation of February 10, 1925, see *ibid.*, p. 45.

²⁹ For texts of treaties, see *ibid.*, 1925, vol. II, p. 70; 1927, vol. III, p. 101; and 1928, vol. III, p. 208.

suggested that you cause the Turkish text thereof to be carefully checked as to its accuracy before your signature and seal are affixed thereto. For this purpose it is hoped you may be able to secure the assistance of Mr. Charles E. Allen and Mr. Lewis Heck.³⁰

Referring to your despatch No. 727 of April 27, 1929 reporting the request of the Turkish Government to be advised of the names of the technical assistants whom you propose to designate for the purpose of the treaty negotiations, you may designate for that purpose such members of your staff as you may desire and give notification thereof to the Turkish Government.

I am [etc.]

HENRY L. STIMSON

[Enclosure]

Draft Treaty of Commerce and Navigation

The United States of America and the Turkish Republic, desirous of maintaining and furthering their commercial relations and of defining the treatment which shall be accorded in their respective territories to the commerce and shipping of the other, have resolved to conclude a treaty of commerce and navigation and for that purpose have appointed their plenipotentiaries.

The President of the United States of America :

The President of the Turkish Republic :

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

ARTICLE I

In respect of import and export duties and other duties and charges affecting commerce, as well as in respect of transit, warehousing and other facilities, and the treatment of commercial travelers' samples, the United States will accord to Turkey and Turkey will accord to the United States, its territories and possessions, unconditional most-favored-nation treatment; and in the matter of issuing licenses for, or the placing of prohibitions or restrictions on, imports or exports, each country will, so far as it may at any time employ such methods, accord to the commerce of the other treatment as favorable, with respect to commodities, valuation and quantities, as may be accorded to the commerce of any other country.

No higher or other duties shall be imposed on the importation into or the disposition in the United States, its territories or possessions, of any articles the produce or manufacture of Turkey than are or shall be payable on like articles the produce or manufacture of any other foreign country ;

³⁰ Lewis Heck was formerly Turkish Secretary of Embassy in Turkey.

No higher or other duties shall be imposed on the importation into or the disposition in Turkey of any articles the produce or manufacture of the United States, its territories or possessions, than are or shall be payable on like articles the produce or manufacture of any other foreign country;

Similarly, no higher or other duties shall be imposed in the United States, its territories or possessions, or in Turkey, on the exportation of any articles to the other or to any territory or possession of the other, than are payable on the exportation of like articles to any other foreign country;

Every concession with respect to any duty, charge or regulation affecting commerce now accorded or that may hereafter be accorded by the United States or by Turkey, by law, proclamation, decree, treaty or agreement, to the products of any third country will become immediately applicable, without request and without compensation, to the commerce of Turkey and of the United States and its territories and possessions, respectively;

The stipulations of this article do not apply:

(a) To the treatment which the United States accords or may hereafter accord to the commerce of Cuba or of any of the territories or possessions of the United States; or to the commerce of the Panama Canal Zone; or to the treatment which is or may hereafter be accorded to the commerce of the United States with any of its territories or possessions; or to the commerce of its territories or possessions with one another or with the Panama Canal Zone;

(b) To such special advantages and favors which Turkey may accord in the matter of the customs tariff affecting products originating within the territories separated from the Ottoman Empire following the War of 1914; or to the treatment which Turkey may accord to purely border traffic within a zone not exceeding fifteen kilometers wide on either side of the Turkish customs frontier;

(c) To prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life; or to regulations for the enforcement of police or revenue laws.

ARTICLE II

(a) In all that concerns the vessels of the United States and Turkey respectively, with the exception only of those engaged in coastwise traffic, the principle of national treatment shall be maintained by each country toward the other country.

(b) In all that concerns the vessels of the United States and Turkey respectively, including those engaged in coastwise traffic, the principle of unconditional most-favored-nation treatment also shall be maintained by each country toward the other country.

ARTICLE III

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at as soon as possible. It shall take effect at the instant of the exchange of ratifications and shall remain in effect for a period of five years and thereafter until one year from the date when either of the High Contracting Parties shall have notified the other of an intention to terminate it; provided, however, that the obligations of paragraph (a) of Article II hereof may, after one year from the date of the exchange of ratifications, be terminated by either party on ninety days' written notice and shall cease sixty days after the enactment of inconsistent legislation by either of the High Contracting Parties.

In Witness Whereof the respective plenipotentiaries have signed the same and have affixed their seals thereto.

Done in duplicate in the English and Turkish languages at Angora this . . . day of nineteen hundred and twenty-nine.

711.672(1929)/9 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, September 8, 1929—6 p. m.

[Received September 8—5:10 p. m.]

5. I have begun negotiations for Treaty of Commerce and Navigation and shall postpone leave of absence until they are completed. Expect to cable Turkish counter proposals within a day or two. The proposed Turkish alterations in Department's text appear to be chiefly clarifications and precisions rather than matters of principle.

GREW

711.672(1929)/11 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, September 11, 1929—11 a. m.

[Received September 12—12:05 a. m.³¹]

54. [Paraphrase.] Department's No. 167, August 2 [6]. My 5, September 8, 7 [6] p. m., from Angora.

The negotiations in 2 plenary sessions and in informal conferences have resulted in the Turkish treaty delegates withdrawing many of the objections they made originally to the Department's text. The text which follows represents the maximum attainable during the first stage of negotiations in aligning the Turks to the viewpoint of the Department. Some of their amendments, I venture to hope, may be

³¹ Telegram in four sections.

considered as advantageous to us instead of the opposite. The Turkish delegates realize fully the existence of certain exceptional circumstances which must be taken into account in connection with this treaty's eventual ratification by the United States, and they state that they would not be willing to conclude with any other power a treaty drafted in terms so general. Their principal concern apparently is lest future misunderstandings occur with their own officials unless certain provisions are more precisely phrased, and they state they would rather be charged with overmeticulousness in negotiations instead of with eventual bad faith in the carrying out of the exact terms of treaty obligations. The Turkish amendments are nevertheless open to further discussion, and in the event the Department should find them not acceptable I believe more may be accomplished to meet the wishes of the Department.

In considering these Turkish amendments, the Department may wish to keep in mind the possibility of clarifying some of the points at issue satisfactorily in a *procès-verbal* or protocol or exchange of notes, should such procedure be deemed as preferable to some of the changes of text proposed by the Turkish delegates.

The alterations proposed by the Turkish delegates in the Department's treaty text are as follows: [End paraphrase.]

The President of the Turkish Republic possesses the legal title of His Excellency which the Turkish delegation insists must be used in the preamble in both the English and Turkish texts. May it be assumed that the President of the United States will lose nothing in prestige through this discrepancy? Otherwise the Department's text is accepted in its entirety.

Article 1, line 1, after "export duties" add "including surtaxes and coefficients of increase".

Line 3, instead of "and other facilities" substitute "and other customs formalities".

Page 2, line 1, after "treatment", period instead of semi-colon.

Line 1, omit text beginning "and in the matter of issuing licenses" down to end of paragraph in line 7.

The Turkish delegation requests that these provisions be dealt with in a separate article as they constitute a separate subject. They will be found later in this telegram.

Paragraph 2 accepted in its entirety except for the insertion of the word "therefore" at the beginning, because paragraph 2 is explanatory of paragraph 1.

Paragraph 3 accepted in its entirety except for the insertion of the word "similarly" at the beginning. This seems to be a logical proposal.

Paragraph 4 accepted in its entirety.

Paragraph 5. Substitute article 7, paragraph 4, of our treaty of 1923 with Germany as follows: "Any advantage, of whatever kind, which either High Contracting Party may extend to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other high contracting party." (The use of the word "concession" is particularly obnoxious to the Turks.)

Paragraph 6, subheading (a), line 2, following "may hereafter accept this" insert "in matters of customs tariff to the commerce of Cuba" et cetera. (The phrase "in matters of customs tariff" appears in the succeeding paragraph (b) which has reference to Turkey. The Turkish delegation insists upon its inclusion in paragraph (a) in order to make the two paragraphs reciprocal.)

Subheading (b), line 2, following "Turkey" substitute "accords or may hereafter accord" for "may accord." (This change makes the text uniform with that in subheading (a).)

Subheading (b), line 3, following "originating within" substitute "the countries detached from the Ottoman Empire in 1923" et cetera. (This change eliminates the Dodecanese Islands from the provisions of the article.)

Subheading (c), eliminate this paragraph which is to be dealt with in the next article.

At the end of article 1 insert the following provisions as article 2:

Article 2, paragraph 1. "In all that concerns matters of prohibitions or restrictions on importations and exportations each of the two countries will accord, whenever they may have recourse to the said prohibitions or restrictions, to the commerce of the other country treatment equally favorable as that which is accorded to any other country."

Paragraph 2. "The same treatment will apply in the case of granting licenses insofar as concerns commodities, their valuations and quantities. As an exception to the foregoing the high contracting parties agree to recognize that the following categories of prohibitions or restrictions of importations or exportations will be applied only on condition that they do not constitute a means of arbitrary discrimination between countries possessing identical conditions." (The Turkish delegation have copied the wording of the standard treaty of the League of Nations.)³²

Subheading (a), last paragraph. "Prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life;"

Subheading (b). "Prohibitions or restrictions promulgated in

³² See international convention for the abolition of import and export prohibitions and restrictions, signed at Geneva, November 8, 1927; *Foreign Relations*, 1928, vol. 1, p. 336.

virtue of the application of laws relating to public safety or for moral or humanitarian reasons;"

Subheading (c). "Prohibitions or restrictions applied to products which are or shall be in the interior of the country, so far as concerning production or commerce, the basis of state monopolies or of monopolies controlled by the State." (The Turkish delegation insisting upon including monopolies as an exception. Both the British and French treaties contain the exceptions in subheading (a), (b) and (c).)

Paragraph 3. "It is understood that the High Contracting Parties will have the right to apply these prohibitions or restrictions to products favored by premiums or subsidies either openly or secretly." (This is the League of Nations text with reference to dumping.)

Article 3, paragraph (a). "Turkish vessels will enjoy in the United States of America and vessels of the United States of America will enjoy in Turkey the same treatment as national vessels."

Paragraph (b). "The stipulations of article 3, paragraph (a), do not apply."

Subheading (1). "To cabotage governed by the laws which are or shall be in force within the territories of each of the High Contracting Parties;"

Subheading (2). "To the support which is accorded or may be accorded to the national merchant marine; nor to the advantages accorded to vessels owned and operated by the state or vessels in which the state has an interest; nor to privileges accorded to associations and societies for nautical sports;"

Subheading (3). "To fishing in the territorial waters of the High Contracting Parties; nor to special privileges which have been or may be recognized, in one or the other country, to products of national fishing;"

Subheading (4). "To the maritime service of ports, roadsteads or seacoasts; nor to maritime assistance and salvage; so long as such operations are carried out in the respective territorial waters and for Turkey in the Sea of Marmora." (The Turkish law on cabotage covers more than coastwise traffic. The exceptions to national treatment to vessels in paragraph (b), subheading (1), (2), (3), and (4), are obligatory insofar as the Turkish delegation is concerned on account of existing Turkish legislation. These exceptions are contained in the French and British treaties.)

Paragraph (c). "All matters which are not enumerated above shall enjoy most favored nation treatment." (If the Department prefers I am of the opinion that the Turkish delegation will accept article 9 of the German-American treaty in lieu of paragraph (a), article 3, of this treaty.)

Article 4, paragraph A. "Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose regulations for the enforcement of police or revenue laws." (This article caused me more difficulty than all the rest of the draft. I trust that it will be satisfactory to the Department to leave article 4 without change. The wording is that of our German treaty.)

Article 5 substitute for article 3. Paragraph 1, second sentence, substitute "Three years" for "five years".

Line 8, after semi-colon, strike out "provided, however, that the obligations of paragraph (a) of article 2 hereof" and substitute "with the double reserve, however, that the obligations concerning national treatment contained in paragraph (a) of article 3 hereof".

Line 12, substitute for "inconsistent legislation" the following: "legislation inconsistent with the above-mentioned national treatment obligations".

Paragraph 2, no change.

Strike out paragraph 3 and insert the following: "Done at Ankara in duplicate in the English and Turkish languages which have the same value and will have equal force this blank day of blank 1929."

(The Turkish delegation proposed that this treaty be concluded for only one year in view of its brevity and their feeling that a more detailed treaty will eventually have to be negotiated. I persuaded them to agree to three years. They are not disposed to agree to five years.)

Where does the Department desire that ratifications be exchanged?

Please send reply to Constantinople where I shall wait until it is received.

GREW

711.672(1929)/12 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, September 17, 1929—4 p. m.

[Received 5:25 p. m.]

55. Supplementing my 54, September 11, 11 a. m. Turkish treaty delegation refers to phrase, in article 1 of Department's text, "other duties and charges affecting commerce", and states that the delegation interprets this phrase as applying to the imposition of consumption taxes, octroi charges, et cetera, on the importation and exportation of merchandise. They do not construe it as including the levying of income taxes or taxes on profits of individuals or companies engaged in business which should more properly be dealt with in a convention of residence and establishment. They add that Turkey does not now impose discriminatory taxes on American

citizens or companies doing business in Turkey and that it has no intention of levying such taxes. The delegation requests that the precise meaning of the foregoing phrase be defined in a protocol to the treaty.

GREW

711.672(1929)/13: Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, September 21, 1929—11 a. m.

48. Your 54, September 11, 11 a. m. The following are the Department's views with respect to changes in treaty text proposed by Turkish Delegation:

Preamble: No objection to use of title "His Excellency the President of the Turkish Republic."

Article One as proposed in enclosure to Department's instruction No. 167 of August 6:

No objection to changes and omissions except that in line three Department would prefer to omit the word "other" before the words "customs formalities" and in line three of sub-heading B the reference to the Ottoman Empire in connection with date 1923 would seem to be open to objection since the Sultanate was abolished on November 1, 1922 and it was the Government of the Grand National Assembly of Turkey which was party to the Lausanne Treaty of July 24, 1923.

Article Two as proposed by Turkish Delegation:

No objection to paragraph one and to the first sentence of paragraph two. The ninth word from the end of paragraph one should presumably be "to" instead of "as".

The Department would very much prefer to omit entirely the second sentence of paragraph two and sub-headings A, B and C. The Turks have apparently taken these provisions from article four of the proposed League of Nations convention for the abolition of import and export prohibitions and restrictions. By article two of that convention the Parties agree to abolish all import and export prohibitions and restrictions and not thereafter to impose any such prohibitions and restrictions. The exceptions specified in article four of the convention are exceptions to the broad general undertaking to do away altogether with prohibitions and restrictions. The Turkish Delegation in their draft of article two of our Treaty is proposing that very much the same exceptions be applied to an undertaking to give most favored nation treatment with respect to import and export prohibitions and restrictions and licenses. As applied to this far more limited undertaking, the exceptions are inappropriate and might even be construed as permitting discrimination. It might be pointed

out to the Turks that paragraph one and the first sentence of paragraph two of article two would in no way prevent their adopting import and export prohibitions and restrictions in order to assist a monopoly, but would prevent their relaxing such prohibitions and restrictions for the benefit of some particular country without relaxing them for the benefit of the United States.

The Department would prefer to omit paragraph three since it is not the practice of this Government to grant bounties or subsidies and no provision on this subject has been included in previous American treaties. Its inclusion in our treaty with Turkey might give rise to misunderstandings as to the interpretation of treaties of the United States now in force but which contain no such provisions.

Article three as proposed by Turkish Delegation :

No objection to paragraphs A and B or to sub-headings one and three of paragraph B, except that in sub-heading one the expression "coastwise traffic" should be used instead of "cabotage." According to the Department's views coastwise traffic clearly does not include the matters covered by the sub-paragraph of paragraph numbered one of article twenty-five of the proposed British-Turkish Treaty³³ (enclosure to your despatch 833 of August 28)³⁴ and no special provision to this effect is therefore needed. You should carefully ascertain from the Turkish Delegation their views on this matter. If there is any danger that the Turkish Government with respect to American shipping will construe sub-heading one of paragraph B of Article three of our treaty to include the matters set forth in the aforementioned sub-paragraph of the British Treaty, the Department would wish to consider the drafting of an appropriate provision for our treaty. Instead of sub-heading two the following is suggested which follows closely paragraph numbered two of Article twenty-five of the proposed British-Turkish Treaty: "To the support in the form of bounties which is or may be accorded to the national merchant marine." In sub-heading four insert the words "exercise of the" before "maritime service" and change "to" to "of" before "maritime assistance." Instead of paragraph C the Department suggests the following in the interest of better drafting: "In all matters concerning the treatment of vessels which are not enumerated in the foregoing exceptions, the principle of unconditional most-favored-nation treatment, as well as the principle of national treatment provided in paragraph A of this article, shall be maintained."

Article four proposed by the Turkish Delegation :

The Department agrees that it is more logical to include this provision in a separate article rather than in a sub-paragraph of arti-

³³ See treaty of commerce and navigation, with protocol, signed at Angora, March 1, 1930; League of Nations Treaty Series, vol. cviii, p. 407.

³⁴ Not printed.

cle one as originally proposed. In view of the suggested omission of sub-heading A paragraph two article two the Department would wish to have included in article four the whole of the concluding sentence of the first paragraph of article seven of the German Treaty omitting, if you think wise, the words "on such terms as it may see fit."

Article five as proposed in enclosure to Department's instruction No. 167 of August 6:

No objection to changes proposed, except that the word "reservation" might advantageously be substituted for the unusual expression "double reserve".

If the Turkish Delegation desires that the exchange of ratifications should take place at Angora the Department has no objection.

With reference to your telegram 55, September 17, 4 p. m. The Department entirely concurs in the Turkish Delegation's interpretation of the words "other duties and charges affecting commerce". The Department considers that it is clear from the words as well as from the context that income taxes and taxes on profits are not embraced within the meaning of this expression. The Department therefore hopes the Turkish Delegation will not insist on setting forth anything on this subject in a protocol.

STIMSON

711.672 (1929) /17 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, September 24, 1929—midnight.

[Received September 25—4:30 a. m.]

6. Department's 48, September 21, 11 a. m. All of the Department's proposals respecting articles 1, 2, 4 and 5 are accepted in their entirety by the Turkish delegation.

Article 3, paragraph (b), subheading 2: If the text proposed by the Department is to be substituted for the text proposed by the Turks they insist upon amplifying the word "bounties" by the phrase "and other advantages". As the word "advantages" has been used in other American treaties in this connection, I trust that the Department will find no objection to meeting the Turkish contention.

Article 3, paragraph (c): It is clear that the Turkish delegation will not agree to accord both national and most-favored-nation treatment on the same issues. They argue that to assume that national treatment of the Turkish flag in matters respecting navigation could ever be less favorable than most-favored-nation treatment would tend to place Turkey in the same category with those Oriental countries where capitulations still exist. They maintain that western countries can afford to agree to such a provision but that Turkey cannot do so. The presi-

dent of the Turkish delegation claims that our English translation of the Turkish proposal, which translation was approved by one of his technical assistants, Subnizia Bey, was incorrect and should have read: "All other exceptions outside of those enumerated above shall be subject to most-favored-nation treatment." He now proposes either the cancellation of paragraph (c) or the adoption of the phraseology next above provided in either case that we accept the inclusion of the word "advantages" in paragraph (b) subheading 2. If neither of these proposals is satisfactory to the Department I can only suggest that we endeavor to obtain either in a protocol or in a procès-verbal the provision that where national treatment is mentioned in the treaty this implies most-favored-nation treatment because the intention of both parties is obviously that national treatment in both countries is at least equal to or superior to most-favored-nation treatment. Incidentally I have persuaded the Turkish delegation to drop the title "His Excellency" in the preamble.

If the Department is able to accept the views of the Turkish delegation set forth above, the treaty can be signed within a very few days as I have arranged with Allen and Heck to come at any moment to check the Turkish text.

GREW

711.672 (1929)/19: Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, September 25, 1929—4 p. m.

[Received 9:10 p. m.²⁵]

9. The following telegram supplements and amplifies my 6, September 24, midnight. I shall not sign the treaty until a reply to the present telegram is received.

Article 1:

1. Turkish delegation requests that in the final plenary session I make a statement for the minutes along the lines of the final paragraph of the Department's telegram 48, September 21, 11 a. m., regarding "other duties and charges affecting commerce" merely for purposes of clarification. These minutes, which will be in French, will not form part of the treaty and will not be submitted for ratification.

2. Subheading (b): The formula chosen is "the countries detached in 1923 from the former Ottoman Empire".

3. Article 2: In view of the agreement of the Turkish delegation to meet the Department's wishes by omitting the greater part of their text of this article, they request me to make a statement which shall be recorded in the minutes of the final plenary session to the effect

²⁵ Telegram in two sections.

that the provisions of paragraph 1 and the first sentence of paragraph 2 would in no way prevent Turkey from adopting import and export prohibitions and restrictions in order to assist a monopoly but would prevent their relaxing such prohibitions and restrictions for the benefit of some particular country without relaxing them for the benefit of the United States.

4. They also desire a statement for the minutes along the lines of paragraph 3 of the Department's 48, September 21, 11 a. m., regarding bounties and subsidies (dumping). They desire this statement to protect them in case they are charged with giving exceptional treatment to the United States by the omission of this clause.

5. Article 3. Turkish delegation requests that after the word "coastwise traffic" we insert the word "cabotage" in brackets. However, if the Department dislikes this proposal they will be satisfied with a statement from me for the minutes that where coastwise traffic appears in the English text I shall have enumerated meaning with cabotage. They prefer the first procedure.

6. The Turkish delegation is quite willing to include in our treaty, paragraph 2, subheading (1), article 25 of the British treaty regarding cabotage if the Department so desires, or else a statement for the minutes.

7. Article 3, paragraph (c): In the interests of better drafting the English text now reads: "All other exceptions not included in those mentioned above shall be subject to most-favored-nation treatment."

8. [Paraphrase.] Regarding article 3, paragraph (c): The Turkish delegates state that the exceptions enumerated in article 3 to national treatment certainly will not be applied in a discriminatory manner. They would reluctantly be willing to give the United States, in a protocol or in the minutes, the same provision as given Great Britain in paragraph numbered 1 of the Anglo-Turkish protocol regarding national and most-favored-nation treatment in navigation, but it is strongly urged by them that this request be not made, since the Turkish Government is extremely sensitive in regard to this matter (see my 6, September 24, midnight). The Turkish delegates state that distinctly bad feeling was caused by the British delegation's insistence upon this provision, and as a result the British have lost prestige. Such insistence is interpreted by the Turks as further proof that the British attitude to Turkey is not sympathetic. The French did not insist, and the provision does not appear in their treaty with Turkey.³⁶ Accordingly I do not recommend insistence by the United States in this regard, and I am hopeful that insertion of the provision will not be required by the Department.

³⁶ Convention of commerce and navigation, signed at Angora, August 29, 1929; League of Nations Treaty Series, vol. cxxiii, p. 193.

9. As the final plenary session has been set provisionally for September 28, I request instructions or authorization covering the above points.

10. Should the Department object to some of the above proposals, kindly make it clear whether the objections are fundamental or, if it proves impossible to obtain full compliance with the viewpoint of the Department, I am authorized even so to sign the treaty. [End phrase.]

GREW

711.672 (1929) /21 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, September 27, 1929—5 p. m.

49. Your 6, September 24, midnight and 9, September 25, 4 p. m.

1. Amplification of the word "bounties" in Article three paragraph B subheading 2 by adding the words "and other advantages" is seriously objectionable. The word "advantages" is so elastic and vague as to cover almost anything and might be so construed as to restrict seriously the scope of the undertaking to give national treatment contained in Article three paragraph A. The Department is prepared to consider sympathetically any more precisely phrased formula the Turks may suggest. Meanwhile, you should endeavor to obtain their consent to the following draft of subheading two: "To the support, in the form of bounties or subsidies of any kind, which is or may be accorded to the national merchant marine."

2. The Department is prepared to accept the redraft of Article three, paragraph C, contained in paragraph numbered seven of your telegram No. 9, September 25, 4 p. m., although it is not clear exactly what is included in the expression "all other exceptions" and the advantages of this provision are not therefore apparent. Presumably, all the exceptions to national treatment which it is proposed to make have been enumerated in Article three, paragraph B, subheadings one to four inclusive. If after further reflection it is your considered judgment that no tangible advantages would accrue to the United States by Article three paragraph C as redrafted you are authorized to omit it entirely. In deference to Turkish susceptibilities and in view of your recommendation the Department will not insist upon including in the minutes a provision in the sense of paragraph numbered one of the British-Turkish protocol.

3. The formula set forth in paragraph numbered two of your telegram No. 9 is acceptable and there is no objection to the insertion of the word "cabotage" in brackets after the expression "coastwise traffic" in Article three, paragraph B, subheading one.

4. The Department is agreeable to the drawing up of minutes of the final plenary session these minutes to be in French, not to form

part of the treaty, not to be submitted for ratification, and to make mention of the following matters:

(a) A statement merely for purposes of clarification to the effect that the expression "other duties and charges affecting commerce" in Article one, first paragraph does not include income taxes and taxes on profits.

(b) A statement from you to the effect that the provisions of Article two would in no way prevent Turkey from adopting import and export prohibitions and restrictions in order to assist a monopoly but would prevent their relaxing such prohibitions and restrictions for the benefit of some particular country without relaxing them for the United States.

(c) A statement that a provision in the sense of Article two paragraph three proposed by the Turks has been omitted in view of the fact that it has not been the practice of the United States to grant bounties and subsidies and no provision on this subject has been included in previous American treaties.

(d) A statement that with respect to Article three, paragraph B, subheading one, it is understood that American and Turkish vessels may nevertheless proceed from a port of the territory of one of the parties to one or more ports of the territory of the same party, whether for the purpose of unloading all or a part of their cargo or passengers coming from abroad or for the purpose of loading, in part or in whole, their cargo or taking on passengers for a foreign destination. (This is the wording of Article twenty-five, subheading numbered one, paragraph two of the British-Turkish Treaty. See paragraph numbered six of your telegram No. 9.)

STIMSON

711.672(1929)/22 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, September 28, 1929—8 p. m.

[Received 8:05 p. m.]

12. Department's 49, September 27, 5 p. m. The Turks have accepted the Department's redraft of article 3, paragraph (b), subheaded [*subheading 2?*] reading "bounties or subsidies of any kind," and will sign the treaty provided I permit the inclusion of a statement in the minutes amplifying "bounties or subsidies of any kind."

I am endeavoring to overcome the inclusion of this amplification, and hope to obtain the assent of the Turks tomorrow to sign the treaty without further declarations in the minutes.

If I obtain the complete assent of Turks to the treaty and minutes as finally approved by the Department in its telegram No. 49, September 27, 5 p. m., and unless I receive instructions to the contrary I shall sign the treaty Tuesday, October 1.

After further reflection I have arrived at the conclusion that article 3, paragraph (c), should not be omitted from the treaty.

GREW

711.672(1929)/23 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, September 30, 1929—11 a. m.

52. Your 12, September 28, 8 p. m. The Department understands that Article three paragraph B subheading two now contains the following and only the following: "To the support, in the form of bounties or subsidies of any kind, which is or may be accorded to the national merchant marine."

The Department further understands that as was intended in its telegram 48, September 21, 11 a. m. the Turks have agreed to omit the rest of Article three paragraph B subheading two as first proposed by them beginning with the words "nor to the advantages accorded" and ending with the words "nautical sports."

STIMSON

711.672(1929)/24 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, October 1, 1929—5 p. m.

[Received October 1—3:05 p. m.]

14. My 12, September 28, 8 p. m. The Treaty of Commerce and Navigation with Turkey was signed today in precise accord with the Department's instructions.

No amplification of phrase "bounties or subsidies of any kind" in article 3, paragraph (b), subheading (2), was included either in the treaty or the minutes.

The proposed statement of the Minister for Foreign Affairs concerning monopolies authorized in paragraph 4, subheading (b), in the Department's 49, September 27, 5 p. m., was cancelled.

At the last moment I obtained a statement in the minutes providing mutual most-favored-nation treatment covering all of the exceptions to national treatment enumerated in article 3, paragraph (b), subheading (1) to (4), inclusive. I trust that the minutes, while not to be submitted for ratification, may be available to the Senate in case any effort is made to append a reservation to article 3 of the treaty.

Am leaving tonight for Constantinople and shall depart on October third on leave of absence already granted. My address will be the American Legation, Berne. Crosby will be in charge.

GREW

Treaty Series No. 818

*Treaty of Commerce and Navigation Between the United States of America and Turkey, Signed at Angora, October 1, 1929*³⁷

The United States of America and the Turkish Republic, desirous of maintaining and furthering their commercial relations and of defining the treatment which shall be accorded in their respective territories to the commerce and shipping of the other, have resolved to conclude a treaty of commerce and navigation and for that purpose have appointed their plenipotentiaries.

The President of the United States of America:

Joseph C. Grew, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Turkish Republic.

The President of the Turkish Republic:

Zekai Bey, Deputy of Diarbekir, former Minister, Ambassador.
Menemenli Numan Bey, Minister Plenipotentiary, Undersecretary of State at the Ministry of Foreign Affairs.

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

ARTICLE I

In respect of import and export duties, including surtaxes and coefficients of increase, and other duties and charges affecting commerce, as well as in respect of transit, warehousing and customs formalities, and the treatment of commercial traveler's samples, the United States will accord to Turkey and Turkey will accord to the United States, its territories and possessions, unconditional most-favored-nation treatment.

Therefore, no higher or other duties shall be imposed on the importation into or the disposition in the United States, its territories or possessions, of any articles the produce or manufacture of Turkey than are or shall be payable on like articles the produce or manufacture of any other foreign country;

Similarly, no higher or other duties shall be imposed on the importation into or the disposition in Turkey of any articles the produce or manufacture of the United States, its territories or possessions, than are or shall be payable on like articles the produce or manufacture of any other foreign country;

Similarly, no higher or other duties shall be imposed in the United States, its territories or possessions, or in Turkey, on the exportation

³⁷ In English and Turkish; Turkish text not printed. Ratification advised by the Senate, February 17 (legislative day of January 6), 1930; ratified by the President, March 3, 1930; ratified by Turkey, April 21, 1930; ratifications exchanged at Angora, April 22, 1930; proclaimed by the President, April 25, 1930.

of any articles to the other or to any territory or possession of the other, than are payable on the exportation of like articles to any other foreign country;

Any advantage, of whatsoever kind, which either High Contracting Party may extend to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

The stipulations of this article do not apply:

(a) To the treatment which the United States accords or may hereafter accord in the matter of the customs tariff to the commerce of Cuba or of any of the territories or possessions of the United States; or to the commerce of the Panama Canal Zone; or to the treatment which is or may hereafter be accorded to the commerce of the United States with any of its territories or possessions; or to the commerce of its territories or possessions with one another or with the Panama Canal Zone;

(b) To such special advantages and favors which Turkey accords or may hereafter accord in the matter of the customs tariff affecting products originating within the countries detached in 1923 from the former Ottoman Empire; or to the treatment which Turkey may accord to purely border traffic within a zone not exceeding fifteen kilometers wide on either side of the Turkish customs frontier.

ARTICLE II

In all that concerns matters of prohibitions or restrictions on importations and exportations each of the two countries will accord, whenever they may have recourse to the said prohibitions or restrictions, to the commerce of the other country treatment equally favorable to that which is accorded to any other country.

The same treatment will apply in the case of granting licenses in so far as concerns commodities, their valuations and quantities.

ARTICLE III

(a) Vessels of the United States of America will enjoy in Turkey and Turkish vessels will enjoy in the United States of America the same treatment as national vessels.

(b) The stipulations of Article III paragraph (a) do not apply:

(1) To coastwise traffic (cabotage) governed by the laws which are or shall be in force within the territories of each of the High Contracting Parties;

(2) To the support in the form of bounties or subsidies of any kind which is or may be accorded to the national merchant marine;

(3) To fishing in the territorial waters of the High Contracting Parties; nor to special privileges which have been or may be recognized, in one or the other country, to products of national fishing;

(4) To the exercise of the maritime service of ports, roadsteads or seacoasts; nor to pilotage and towage; nor to diving; nor of maritime assistance and salvage; so long as such operations are carried out in the respective territorial waters, and for Turkey in the Sea of Marmara.

(e) All other exceptions not included in those mentioned above shall be subject to most-favored-nation treatment.

ARTICLE IV

Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

ARTICLE V

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Ankara as soon as possible. It shall take effect at the instant of the exchange of ratifications and shall remain in effect for a period of three years and thereafter until one year from the date when either of the High Contracting Parties shall have notified the other of an intention to terminate it; with the reservation, however, that the obligations concerning national treatment contained in paragraph (a) Article III hereof may, after one year from the date of the exchange of ratifications, be terminated by either party on ninety days' written notice and shall cease sixty days after the enactment of legislation inconsistent with the above-mentioned national treatment obligations by either of the High Contracting Parties.

In witness whereof the respective plenipotentiaries have signed the same and have affixed their seals thereto.

Done at Ankara in duplicate in the English and Turkish languages which have the same value and will have equal force this first day of October nineteen hundred and twenty-nine.

JOSEPH C GREW
[SEAL]

ZEKÂI
[SEAL]

M NUMAN
[SEAL]

Treaty Series No. 813

*Minutes of the Meeting of October 1, 1929, Held at Angora at the
Residence of the Turkish Delegation*

[Translation ³⁸]

The meeting is convened at 4 p. m.

Present:

For the American Delegation:

Joseph C. Grew
Sheldon Leavitt Crosby
Julian E. Gillespie

For the Turkish Delegation:

H. E. Zekai Bey
H. E. Menemenli Numan Bey

The draft treaty of commerce and navigation between the United States of America and Turkey, prepared by the two delegations, is read.

1. With regard to Article I, the President of the Turkish Delegation, His Excellency Zekai Bey, declares that by the words: "other duties and charges affecting commerce", contained in the first paragraph of the Article, he understands the duties pertaining to importation and exportation, to consumption taxes, etc. and not to internal taxes levied on incomes and to taxes on profits. The President of the American Delegation, Mr. Grew, declares that his Government is entirely in accord with the Turkish Delegation with respect to the interpretation given by the Turkish Delegation to the phrase: "other duties and charges affecting commerce". The American Government is of the opinion, he says, that it is clear from the words as well as from the text that the sense of the phrase in question does not include taxes on incomes and taxes on profits.

2. For the third paragraph of Article II reading as follows: "It is understood that the High Contracting Parties shall have the right to apply these prohibitions or restrictions to products favored by premiums or subsidies, either openly or secretly", the President of the American Delegation declares that his Government desires to suppress this paragraph since it is not the practice of the United States to accord premiums or subsidies and that no provision on this subject has been inserted hitherto in any American treaties.

The President of the Turkish Delegation declares that he will consent to omit this paragraph of the text of the Treaty in view of the declaration of the President of the American Delegation.

3. The President of the American Delegation declares that by Article III, paragraph (b), section 1, he understands that in all

³⁸ Translation from Executive A, 71st Cong., 2d sess.

cases American and Turkish ships shall be permitted to pass from one port of the territories of one of the Parties into one or several ports of the territories of the same Party, either in order to unload there the whole or a part of their cargo or of their passengers coming from abroad, or to make up or complete there their cargo or to take on passengers for a foreign destination.

The President of the Turkish Delegation declares that the Turkish Government gives the same interpretation to this provision.

4. The President of the American Delegation requests His Excellency the President of the Turkish Delegation to be so kind as to inform him whether it is understood that the exceptions enumerated in paragraph (b) of Article III will be applied to vessels of the United States in Turkey and to Turkish vessels in the United States without distinction in favor of any third country.

The President of the Turkish Delegation replies in the affirmative saying that such is his understanding. Thereupon the President of the American Delegation declares that they are in accord on this subject.

JOSEPH C. GREW

ZEKÂÎ

[On April 8, 1930, the American Ambassador in Turkey and the Turkish Minister for Foreign Affairs exchanged notes to renew the commercial *modus vivendi* from April 10 until the date of exchange of ratifications of the treaty signed October 1, 1929 (711.672 (1929)/60). The exchange of ratifications took place April 22, 1930.]

**TURKISH DECLARATION TO THE UNITED STATES RESPECTING THE
TURCO-SOVIET PROTOCOL OF DECEMBER 17, 1929³⁹**

761.6711/20

The Ambassador in Turkey (Grew) to the Secretary of State

No. 903

CONSTANTINOPLE, December 20, 1929.

[Received January 15, 1930.]

SIR: With reference to my despatch No. 901 of December 18, 1929,⁴⁰ relative to the protocol signed by Turkish and Russian plenipotentiaries in Ankara on December 17, 1929, extending for two years the Turco-Russian Treaty of Friendship and Neutrality signed in Paris on December 17, 1925,⁴¹ and for a third year unless denounced six months prior to the end of that period, I have the honor to inform the Department that on December 19, 1929, the Undersecretary of State for Foreign Affairs, Numan Menemenli Bey, asked Mr. Crosby⁴² in

³⁹ For text of the protocol, see *British and Foreign State Papers*, vol. CXXXII, p. 878.

⁴⁰ Not printed.

⁴¹ *British and Foreign State Papers*, vol. CXXV, p. 1001.

⁴² Sheldon L. Crosby, Counselor of Embassy.

Ankara to call upon him at the Foreign Office and requested him to inform me that the Turkish Ambassador in Washington had been instructed to make to the Government of the United States an explanatory declaration regarding the purport of the treaty along the following lines:

“In the protocol which we have just signed with Mr. Karakhan containing provisions as to securing the consent of the other party before concluding political agreements which go beyond normal agreements, we have only Europe and Asia in view and we have been influenced by geographical position.

“As a matter of actual fact it is an engagement more advanced and more accentuated than the requirements of normal relations and furthermore, on account of our policy of peace, we are opposed to alliances.

“In any case, the negotiations which have taken place with our neighbors, the Soviets, are limited to the relations of our two countries and in the protocol which has been signed no country has been particularly envisaged and it in no way applies to America.”

The Undersecretary added that the protocol would not affect Turkey's peaceful relations with any other state and that he wished especially to observe that the references to states contiguous by land or sea to [Russia or] Turkey had no reference whatever to Siberia or Alaska. He pointed out that the agreements mentioned in Article 2 of the protocol refer only to secret pacts not published and that they have nothing whatever to do with treaties of amity, commerce, residence, establishment, etc. He said that in actual fact the protocol was primarily effective on Russia and Turkey in Europe and Asia and the Near East and that the protocol could and would in no way or at any time affect Turkish relations with the United States with regard to present or future treaty relations between the two countries.

The Undersecretary ended by declaring officially and in the name of his Government that no obstacle whatever exists to the development and the consolidation of Turco-American relations in every domain and that such development and consolidation is in no way whatever opposed by the recently signed protocol.

This statement by the Undersecretary should be accepted in entire good faith. It appears to me obvious from the terms of the protocol—and this is brought out by the comments of the Foreign Office—that the object of the instrument is to prevent either of the high contracting parties from entering into political alliances with a third power or to conclude secret political treaties with other powers without the consent of the other high contracting party. While it undoubtedly tightens the relations between Turkey and Soviet-Russia and while it may be regarded as “an engagement more advanced and more accentuated than the requirements of normal relations”, it cannot,

according to the interpretation of the Turkish Government, be regarded in any way as an actual alliance. The Minister for Foreign Affairs has continually dwelt in our conversations upon Turkey's disapproval of alliances in any form and from the instructions sent to Mouhtar Bey in Washington it appears that he has been directed to inform the American Government that Turkey is opposed to alliances. The purpose of the protocol appears to be primarily to prevent either of the high contracting parties from entering into alliances with other powers.

One current rumor in Constantinople is that the Russian Government was disquieted by the recent visit of the British fleet to Constantinople and by the unusually cordial reception which it received and that the Soviet Government proposed the present protocol out of fear lest Turkey should drift into a political alliance with Great Britain or some other European power. There are however no official indications to support this theory. In fact the same apprehension might equally well exist in the mind of the Turkish Government as regards Soviet Russia.

In any case it is quite clear both from the terms of the protocol and from the comments of the Undersecretary of State reported above that the agreement does not affect normal treaty relations with any power and that it can have no bearing upon our Treaty of Commerce and Navigation^{42a} nor upon the kind of treaties which the United States might in future be disposed to negotiate with the Turkish Republic.

In view of the fact that the Turkish Ambassador in Washington has been instructed by telegraph to make these official explanations to the Department on behalf of his Government it appears to me to be superfluous to send these same explanations myself by cable.

I have [etc.]

JOSEPH C. GREW

761.6711/18a

The Secretary of State to the Ambassador in Turkey (Grew)

No. 194

WASHINGTON, January 7, 1930.

SIR: Adverting to the Department's telegram No. 70 of December 28, 5 p. m., 1929, and to your telegraphic reply No. 76 of December 29, 10 p. m., 1929,⁴³ regarding the declaration which the Turkish Ambassador was instructed to read to the Secretary of State in connection with the Protocol signed at Angora on December 17, 1929, renewing the Turco-Soviet Treaty of Neutrality and Non-Aggression signed at Paris on December 17, 1925, there is enclosed herewith for your information a copy of the declaration as made by the Ambassador in French

^{42a} *Ante*, p. 838.

⁴³ Neither printed.

to the Secretary on January 2, 1930, together with an English translation thereof.

As will be noted, the text of the enclosed declaration differs in some particulars from the text furnished you by the Turkish Undersecretary of State for Foreign Affairs and which was transmitted in your telegram No. 76 of December 29, 10 p. m., 1929.

The Department would be pleased to receive any further comments which you may have to make on the circumstances attending the Turkish Ambassador's declaration.⁴⁴

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

[Enclosure—Translation]

Declaration Made by the Turkish Ambassador (Ahmet Muhtar) to the Secretary of State on January 2, 1930

The Government of the Turkish Republic and the Government of the Union of Soviet Socialist Republics have inserted in the Treaty of Neutrality and Non-aggression which they have just prolonged, a clause whereby each Party undertakes to request the assent of the other before concluding with neighboring states, by land or by sea, of the other Party any political agreement that goes beyond the field of normal relations.

It being obvious that this agreement is operative only with respect to the location in Europe and in Asia of the two Parties, no mention therein of this geographical factor was considered necessary. The text already made public is not supplemented by any complementary agreement.

Moreover, the Turkish Government has by this agreement effected an accord which emphasizes all the more its determination to follow a policy of peace, a policy clearly opposed to a system of alliances. It should be added that the negotiations which have taken place with the Soviet Government have had to do exclusively with the relations existing between the two neighboring states. In the agreement recently signed no specific Power was thought of: and there was no thought whatever in this connection of the United States of America.

In conclusion I am authorized to declare in the name of my Government that nothing shall be permitted to interfere with the development of Turco-American relations in every field and that the above-mentioned agreement does not constitute the least obstacle to this development.

⁴⁴ Despatch No. 903, December 20, 1929, *supra*, had not yet reached the Department. In despatch No. 939, February 6, 1930, the Ambassador in Turkey further concluded: "It cannot in any way affect Turco-American relations or interfere with any of the types of treaties which the United States might be disposed to negotiate with the Turkish Republic now or in the future" (761.6711/23).

UNION OF SOUTH AFRICA

ESTABLISHMENT OF DIRECT DIPLOMATIC RELATIONS BETWEEN THE UNITED STATES AND THE UNION OF SOUTH AFRICA

701.48a11/5

The British Ambassador (Howard) to the Secretary of State

No. 610

WASHINGTON, December 27, 1928.

SIR: I have the honour to inform you that I have received instructions from His Majesty's Principal Secretary of State for Foreign Affairs to approach you on behalf of His Majesty's Government in the Union of South Africa and to enquire whether, in principle, the United States Government would be prepared to agree to the establishment of a South African Legation in Washington.

I should be most grateful if you would advise me as to what reply I should return to this enquiry.

I have [etc.]

ESME HOWARD

701.48a11/19

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, January 8, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of December 27 inquiring on behalf of His Majesty's Government in the Union of South Africa whether this Government would be prepared to agree in principle to the establishment of a South African Legation in Washington.

I take pleasure in assuring you that this Government will be happy to receive a diplomatic representative of the Government of the Union of South Africa at such time as it may wish to accredit one to the United States.

I should be greatly obliged if you would cause this assurance to be conveyed to His Majesty's Government in the Union of South Africa and if you would at the same time inquire what diplomatic rank it proposes to confer upon its representative in Washington.

Accept [etc.]

FRANK B. KELLOGG

701.48a11/11

The British Ambassador (Howard) to the Secretary of State

No. 66

WASHINGTON, February 6, 1929.

SIR: With reference to the third paragraph of the note which you were good enough to address to me on January 8th regarding the establishment of a South African Legation in Washington, I have the honour to inform you, on behalf of His Majesty's Government in the Union of South Africa, that it is contemplated that the representative to be appointed should have the rank of Envoy Extraordinary and Minister Plenipotentiary.

I have [etc.]

ESME HOWARD

701.48a11/19

The British Ambassador (Howard) to the Secretary of State

No. 424

WASHINGTON, 29 July, 1929.

SIR: At the instance of His Majesty's Government in the Union of South Africa and under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that His Majesty's Government in the Union of South Africa have come to the conclusion that it is desirable that the handling of matters at Washington relating to the Union of South Africa should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to the United States Government.

Such a Minister would be accredited by His Majesty The King to the President of the United States of America and he would be furnished with credentials which would enable him to take charge of all affairs relating to the Union of South Africa. He would be the ordinary channel of communication with the United States Government on these matters. The arrangements proposed would not denote any departure from the principle of the diplomatic unity of the Empire, that is to say, the principle of consultative co-operation amongst all His Majesty's representatives as amongst His Majesty's Governments themselves, in matters of common concern. The methods of dealing with matters which may arise concerning more than one of His Majesty's Governments would therefore be settled by consultation between the representatives of His Majesty's Governments concerned.

In proposing the establishment of a Union Legation, His Majesty's Government in the Union of South Africa trust that it will promote the maintenance and development of cordial relations, not only between The United States of America and the Union but also between the United States of America and the whole British Commonwealth of Nations.

I have [etc.]

ESME HOWARD

701.48a11/20

The British Ambassador (Howard) to the Secretary of State

No. 425

WASHINGTON, 29 July, 1929.

SIR: With reference to my note No. 424 of even date in which I informed you that His Majesty's Government in the Union of South Africa were desirous that the handling of matters at Washington relating to the Union of South Africa should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to the United States Government, I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inquire whether the appointment of Mr. Eric Hendrik Louw in the above capacity would be agreeable to the United States Government.

A short biographical sketch of the career of Mr. Louw, who has been Trade Commissioner for the Union of South Africa in the United States since December 1925, is enclosed.¹

As I understand that His Majesty's Government in the Union are anxious to receive the reply of the United States Government as soon as possible, I beg leave to recall that your predecessor was so good as to inform me on January 8th last that the United States Government would be happy to receive a diplomatic representative of the Union of South Africa at such time as His Majesty's Government in the Union might wish to accredit one to the United States, and that I subsequently notified Mr. Kellogg that the Union Government hoped to be in a position to appoint an Envoy Extraordinary and Minister Plenipotentiary to Washington about the middle of the present year.

I have [etc.]

ESME HOWARD

701.48a11/19

The Acting Secretary of State to the British Ambassador (Howard)

WASHINGTON, August 6, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of your notes Nos. 424, 425 and 426 of July 29,² regarding the establishment of a Legation in Washington by His Majesty's Government in the Union of South Africa, and inquiring whether the appointment of Mr. Eric Hendrik Louw in the capacity of Envoy Extraordinary and Minister Plenipotentiary accredited to the Government of the United States would be agreeable to this Government.

As Secretary Kellogg stated in his note of January 8, 1929, this Government will be most happy to receive in Washington a diplo-

¹ Not printed. On October 5, 1929, in note No. 558, the British Embassy further informed the Department "that Mr. Louw had been High Commissioner for the Union of South Africa in London since March last." (701.48a11/28)

² No. 426 not printed.

matic representative of His Majesty's Government in the Union of South Africa, and I now take pleasure in assuring you that this Government will be glad to receive Mr. Louw in the capacity of Envoy Extraordinary and Minister Plenipotentiary.

I should be greatly obliged if you would cause His Majesty's Government in the Union of South Africa to be so advised and I likewise hope that in communicating with your Government you will state that this Government welcomes the establishment of a South African Legation in Washington as a further strengthening of the ties of friendship between the United States and the British Empire.

It would appear that the question of the establishment of American diplomatic representation in the Union of South Africa would follow as a corollary of the establishment of a South African Legation in Washington, and I take this occasion to inquire whether His Majesty's Government would be agreeable to such a course on the part of this Government.

Accept [etc.]

J. P. COTTON

701.48a11/26

The British Ambassador (Howard) to the Secretary of State

No. 481

WASHINGTON, August 28, 1929.

SIR: With reference to Mr. Cotton's note No. 701.48a11/19 of the 6th instant, I have the honour to inform you, at the instance of His Majesty's Government in the Union of South Africa and under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that His Majesty's Government in the Union of South Africa have learnt with pleasure that the appointment of Mr. Eric Louw as their diplomatic representative would be acceptable to the United States Government, and, further, that they would highly appreciate and warmly welcome the establishment of a United States Legation in the Union of South Africa.

I have [etc.]

ESME HOWARD

[Mr. Louw presented his letters of credence to the President on November 5, 1929.

On December 19, 1929, Mr. Ralph J. Totten, American Consul General at Cape Town, was also appointed Minister Resident in the Union of South Africa. The Legation remained temporarily at Cape Town in order to function for the time being both as Consulate General and in the diplomatic capacity. On June 20, 1930, Mr. Totten was appointed Minister Plenipotentiary and the Legation was removed to Pretoria.]

VENEZUELA

ESTABLISHMENT OF CABLE SERVICE WITH VENEZUELA BY ALL AMERICA CABLES, INCORPORATED

11.7331A15/14

The Chargé in Venezuela (Engert) to the Secretary of State

No. 1486

CARACAS, February 19, 1928.

[Received March 14.]

SIR: Referring to previous correspondence¹ in recent years between the Department and this Legation regarding the desire of the All America Cables, Incorporated, to extend its activities to the Republic of Venezuela I have the honor to submit herewith a brief report recapitulating certain events and bringing them up to date:

The Department will recall that in 1922 All America Cables submitted to the Venezuelan Government a petition asking for a cable concession. This step, I understand, was taken primarily for the purpose of testing the effectiveness of the monopoly of the "Compagnie Française des Câbles Télégraphiques" whose exclusive rights in Venezuela were acquired in 1909 and do not expire until May 11, 1929.

To this petition the Venezuelan Government, as was expected, replied under date of August 7, 1922, that as the existing contract with the French company provided that no other cable concessions could be granted for a period of twenty years it regretted that it was impossible for the Government to comply with the request of the American Company.

However, as the French monopoly only covers communications by submarine cable and grants merely a preferential right over third parties as regards other means of communications, All America Cables conceived the idea of establishing wireless communications in Venezuela in connection with its cable system. In 1923 the company accordingly made application for a concession to operate a radiotelegraph station in Venezuela, its intention being to lay its cables to a point near Venezuela (e. g. Curaçao) and to use wireless between there and Venezuela, and is said to have received an informal reply to the effect that for a consideration of \$25,000 (U. S. Cy.) a wireless concession could be secured.

¹ Not printed.

No further action appears to have been taken by the company in that direction inasmuch as in the meantime the French cable company had opened negotiations with All America Cables for the sale to the latter of all French cables south of New York. But the sale was not completed and in 1924 All America Cables renewed negotiations with the Venezuelan Government for the wireless concession, without asking for either a monopoly or preferential rights. These negotiations did not lead to any results either.

In 1925 All America Cables again took up with the Government of Venezuela the question of a radio concession. Although under Venezuelan law only the Government can operate wireless installations the Cabinet appeared for a while sufficiently interested in the proposition to appoint a committee to redraft and modify the Radio Law so as to permit the granting of a concession to All America Cables. Suddenly, however, the decision was reversed and the company was informed that such a concession could not be granted under existing laws. . . .

In the meantime negotiations between All America Cables and the Compagnie Française des Cables to take over the latter's system had been successfully concluded and the French company applied to its Government for permission to effect the transfer. The French Government refused to give its consent, presumably because of objections raised by representatives of the French West Indies who feared that these colonies might be left without proper cable facilities. It was then suggested to the French company by its own government that it use the purchase price which it was to receive from All America Cables to erect powerful wireless stations in the West Indies. This it declined as it wished to use the money for improvements in its North Atlantic cables.

In view of these repeated failures and the fact that the French monopoly expires in May, 1929, All America Cables decided in 1926 to apply for permission to land in Venezuela a submarine cable connecting the United States with Venezuela, to become effective upon the expiration of the French concession. A petition was accordingly submitted on December 1, 1926, and was strongly supported by the Chamber of Commerce of Caracas. But the Minister of Fomento replied under date of March 3, 1927, that his Government would not consider any application for concessions until a new Cable Law had been enacted.

Such a law was finally passed by the Venezuelan Congress on June 17, 1927, and was signed by the President on July 1, 1927. (See *Gaceta Oficial*, July 20, 1927.) A translation of it was transmitted to the Department with Despatch No. 1358 of July 22, 1927.² Although I

² Not printed.

understand that both the local manager of the French cable company and a representative of the All America Cables were perfunctorily consulted in connection with the drafting of this Cable Law, I should like to point out to the Department certain features of it which would seem to leave much to be desired from the point of view of any company intending to operate thereunder:

1. In the first place, it confers upon the Minister of Fomento (or the Executive) practically arbitrary powers which, in my opinion, would enable an unfriendly official to cripple the company very seriously or to prevent it from operating altogether. (See especially Art. 2, paragraph 1; Art. 3, paragraphs 6 and 10; and Art. 4, paragraph 4.)

2. The company is expected to pay all taxes of a general nature as well as a special tax to be fixed by the Executive which shall never be less than 5% of the gross earnings. (Art. 3, paragraphs 6 and 8.) In many countries All America Cables is exempt from all taxation.

3. No special facilities are granted as regards the use of government lands or the expropriation of private properties. (Art. 3, paragraph 5.) In other countries All America Cables has been given the free use of national lands.

4. A strict government censorship is established without, apparently, previous notice to the public. (Art. 3, paragraph 12.)

5. The Government has the right to demand the removal of any employee of the company, even the highest, without being liable for any indemnification. (Art. 3, paragraph 13.)

While this Cable Law was being considered All America Cables was preparing a fresh petition requesting a permit under the new law, but meanwhile the question of purchasing the French cables had again arisen and the presentation of the petition was once more postponed.

The Legation understands that Mr. Ernest F. Cummings, who has been in Caracas intermittently for the past six years on behalf of the All America Cables, has instructions to await here the result of the negotiations in Paris between his company and the French company. If they succeed he will arrange for the transfer of the French lines; if they fall through he will submit to the Venezuelan Government a petition for an independent concession to become operative after May 1929.

As far as I have been able to ascertain there is no serious opposition in Venezuela to All America Cables as such, but the Venezuelan Government—having apparently decided to keep wireless communications entirely in its own hands—is not quite clear what effect an efficient cable service would have upon radiotelegraphy, as it has made no study of the relative merits of cables and wireless as means for the cheap and safe transmission of messages. It is generally admitted that the French company's services have been both

expensive and slow, and the Venezuelan Government and public are anxious to see the monopoly terminate which enabled this foreign company to maintain artificial rates not otherwise warranted. I therefore believe that the Venezuelan Government would welcome also an application from the French company for a permit to operate after May, 1929, in the hope that open competition would reduce rates to a minimum. The question naturally presents itself whether at the present time there is room for two cable companies that would not only have to compete with one another but also with the Government radio which—if only for military reasons—is certain to be encouraged and developed beyond anything now in existence. It may then even become necessary for the Government to reconsider its position and to sanction some arrangement by which cooperation and coordination between its wireless and cable companies would render their relations complementary instead of merely competitive. Much will depend upon the wisdom with which the Venezuelan Government will exercise official control over this public utility under the new Cable Law so as to reconcile the interests of the State with the interests of the commercial life of the community.

I should be glad to be advised whether the Department has any information regarding the present status of the negotiations in Paris between All America Cables and the Compagnie Française des Cables Télégraphiques.

I have [etc.]

C. VAN H. ENGERT

811.7331A15/14

The Secretary of State to the Chargé in Venezuela (Engert)

No. 1231

WASHINGTON, April 10, 1928.

SIR: The Department has received the Legation's confidential despatch No. 1486 of February 19, 1928, reporting in regard to the Venezuelan cable law of 1927 and in regard to conditions pertaining to radio and cable communications in Venezuela.

With respect to the inquiry made in the last paragraph of the Legation's despatch, you are informed that while the Department is not definitely advised as to what the status of the negotiations between All America Cables, Incorporated and the French cable company is, the Department has recently been informed that the proposed transaction has not been abandoned and that the matter is still under consideration by All America Cables, the French cable company, and the French Government.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

811.7331A15/19 : Telegram

The Chargé in Venezuela (Engert) to the Secretary of State

CARACAS, May 13, 1929—10 a. m.

[Received 8:30 p. m.]

36. Legation's despatch No. 1486, February 19, 1928. French cable concession expired two days ago but French company continues to operate under a provisional permit. Although All America Cables has agreement with the French to take over the cables immediately the Venezuelan Government has so far declined to consent to the transfer.

Confidential. All America Cables has lost much valuable time by dilatoriness if not incompetence of its local representatives until the recent arrival of Vice President Pirie. It may be necessary for the Department to remind the Venezuelan Government informally that it is interested in seeing an effective cable service established between the United States and Venezuela and that it believes All America Cables in a position to render such service. Please see also Legation's despatch No. 1539, April 19, 1928.³

ENGERT

811.7331A15/19 : Telegram

The Secretary of State to the Chargé in Venezuela (Engert)

WASHINGTON, May 17, 1929—5 p. m.

16. If you believe such action necessary you may informally remind the Venezuelan Government as suggested in confidential paragraph your telegram No. 36 of May 13, 10 a. m.

STIMSON

811.7331A15/20

The Chargé in Venezuela (Engert) to the Secretary of State

No. 1860

CARACAS, May 19, 1929.

[Received June 5.]

SIR: Referring to the Legation's telegram No. 36 of May 13, 1929, and in continuation of its despatch No. 1539 of April 19, 1928,⁴ I now have the honor to report on the recent developments in the matter of the application of the All America Cables, Inc., for the right to operate a cable to Venezuela.

As the Department was informed, the concession of the French cable company, the Compagnie Française des Cables Télégraphiques (formerly known as "Société Française des Télégraphes Sous-

³ Not printed.⁴ Despatch not printed.

Marins") expired on May 11, 1929. In anticipation of this event the French company, as long ago as March 10, 1938 [1928?], applied to the Venezuelan Government for permission to continue to operate its then existing system after the termination of its contract, and also to lay a cable from Curaçao to Maracaibo.

To this petition the French company received no reply, and as it assumed that its request had been complicated by its desire to establish the new line between Curaçao and Maracaibo, it suggested to the Venezuelan Government on July 1, 1928, that the two requests be considered separately and that it be advised as soon as possible whether it could continue operating its existing system.

Under date of October 19, 1928, the then Minister of Fomento, Doctor Antonio Alamo, finally replied stating that the Federal Executive would be disposed to allow the French company to continue to operate provided it agreed to pay to the Venezuelan Government a tax equivalent to 12% of its gross revenues from its offices in Venezuela.

In the meantime, on August 8, 1928, All America Cables, Inc., had submitted to the Minister of Fomento a petition for permission to establish its own cable service in Venezuela, with offices at Caracas, La Guaira, and Maracaibo. The company offered to lay modern improved cables, capable of handling telephone traffic as well as telegraphic service. No reply was ever received to this proposal and, as far as the Legation is aware, the local representative of the company made no effort to keep the matter actively before the Venezuelan Government.

Towards the end of December 1928 All America Cables and the French company signed an agreement in Paris by which the former was, after April 1, 1929, to be given the control and operation of the French cables between New York, the West Indies (exclusive of Martinique and Guadalupe) and Venezuela for the joint account of both companies. In order to operate the cables in the name of the All America it was necessary to secure the consent of the governments of the countries served by these cables. This permission was granted by all countries concerned except Venezuela.

When All America found that it was unable to get any action, either on its offer of August 1928 to install its own cables or on the transfer of the French cables, it sent out one of its Vice Presidents, Mr. F. A. Pirie—a step which should have been taken many months earlier. Mr. Pirie arrived in Caracas on February 27, 1929, with Mr. John K. Roosevelt, and immediately got in touch with representatives of the Venezuelan Government and of the French company. He explained to the Venezuelan Government that in order to carry

out the agreement between the two cable companies it was necessary that the Government grant the following rights:

(a) The right of the French company to operate after May 11, 1929, and to lay a cable to Maracaibo.

(b) The right of All America Cables to take over the control and operation of the French cables, and to establish its own cable lines to Venezuela.

On March 5, 1929, the French company—after consultation with Mr. Pirie—replied to the communication from the Minister of Fomento of October 19, 1928 (see p. 2, above) and formally agreed to pay the 12% tax asked for and requested the Government to issue the necessary permit to operate after May 11, 1929, under the provisions of the Cable Law. Again no reply was received.

All America then learned through its lawyers that the principal difficulty was the matter of taxation. It was stated that although the Venezuelan Government had been disposed to permit the French company to operate its present system on the 12% basis, it did not wish to grant any rights to the All America on the same basis, for the reason that the American company not only proposed to improve the service but also intended to operate in Maracaibo and to establish its own cables as well. All of which, it was pointed out, would probably cause serious losses to the Radio operated by the Government.

All America thereupon offered to pay a tax equivalent to 20% of its gross revenue in its offices in Venezuela, but the Government suggested 25%. All America then tried to compromise and offered to pay a fixed tax of 60 centimos per word on all full paid traffic from Venezuela, which would amount to 23% of the company's revenue according to the proposed new basic rate. To this the Minister of Fomento replied that as 60 centimos amounted to only 18 $\frac{3}{4}$ % of the present rate he did not consider it sufficient.

As the presidential term of General Gomez was then about to expire I suggested to Mr. Pirie that it would be well if he were on record in writing with regard to some of the points that had formed the subject of his negotiations. He therefore addressed a communication to the Minister of Fomento on April 17, 1929, both on behalf of All America Cables and on behalf of the French company, in which he confirmed the various petitions and agreed to pay to the Government a tax of 20% of its gross revenue in Venezuela, provided the Government accorded the various rights which had been requested. (See p. 3, above.)

On April 19, 1929, the Venezuelan Government went out of office and a new Cabinet was appointed. . . . Doctor José Ignacio Cárdenas became the new Minister of Fomento. . . . A few days after he took

office the attorneys of All America wrote to him, calling his attention to the pending matters and requesting an interview for Mr. Pirie. On April 24 Doctor Cárdenas replied that he would communicate with the company as soon as he was ready to discuss their case. The request for an interview was ignored, and although some four weeks have elapsed since then Mr. Pirie has not yet seen the Minister.

As far as the Legation is able to judge it appears to be Doctor Cárdenas' idea that—if All America is permitted to operate at all, which is by no means certain—the American company should pay 20% or 25% even while merely continuing to operate the old French concession. All America, on the other hand, is trying to point out that the mere continued operation of the present French system and the petitions submitted by the American concern were two separate and distinct matters. While the Venezuelan Government had fixed a tax of 12% for the former, which had been accepted by the French company, All America Cables would be willing to pay the higher tax of 20% for the continued operation of the French cables only on condition that the Government grant at the same time the American company's request to establish its own cable lines and to lay a new cable from Curaçao to Maracaibo.

As intimated in the Legation's cablegram No. 36 of May 13, 1929, I fear a deadlock has been reached and it may be necessary for this Legation to show an interest in the negotiations. In view of the Department's telegram No. 16 of May 17, 5 p. m., I shall seek an early opportunity to mention the matter informally to Doctor Cárdenas and—if Mr. Pirie desires me to do so—to arrange an interview for him with that Minister.

In the meantime, the French cable company is continuing to operate in accordance with the provisions of the Cable Law of 1927 and subject to the 12% tax as fixed by the Government and accepted by the company, although the Venezuelan Government never specifically authorized it to continue operations. The French company has also announced the following new rates, as from May 12, 1929, for messages from Caracas to the United States, which show a slight reduction in the rates reported in the Legation's despatch No. 1495 of March 2, 1928:^{4a}

New York	Bs. 3. 20 per word
East of the Mississippi	3. 60 " "
West of the Mississippi	3. 80 " "
(One Bolívar equals c. 19 cents U. S. Cy.)	

Deferred and government messages pay 50% of the above rates.

I have [etc.]

C. VAN H. ENGERT

^{4a} Not printed.

811.7331A15/23: Telegram

The Chargé in Venezuela (Engert) to the Secretary of State

CARACAS, August 3, 1929—10 a. m.

[Received 9:30 p. m.]

112. Department's telegram No. 16, May 17, 5 p. m., and Legation's despatch No. 1860, May 19th.

Although I have repeatedly assisted the company informally, I feel they have reached an impasse and have advised them to confer with the Department as to what further action, if any, the Legation could properly take.

ENGERT

811.7331A15/25: Telegram

The Chargé in Venezuela (Engert) to the Secretary of State

CARACAS, October 26, 1929—noon.

[Received 10:35 p. m.]

172. Legation's 162, October 3, 8 p. m.⁵ All America Cables has now received permit in writing to operate French cable to Venezuela and to lay new cable from La Guayra to Curaçao and thence to Maracaibo. Duration of nineteen to twenty years and the tax payable to the Venezuelan Government has been fixed at twelve and a half percent on the gross receipts exclusive of government messages. Company agrees not to charge less than government radio rate.

This brings to a successful conclusion negotiations since 1922 and gives Venezuela a modern cable service which for the first time links it up with All America System.

ENGERT

811.7331A15/26

The President of All America Cables, Inc. (Merrill), to the Secretary of State

NEW YORK CITY, November 11, 1929.

[Received November 13.]

SIR: I have the honor to inform you that the Venezuelan Government has given its consent to the operation by All America Cables of the Antilles system of the Compagnie Française des Câbles Télégraphiques in so far as communication with the Republic of Venezuela is concerned. All America Cables hopes to take over the operation of this system in Venezuela at an early date.

Mr. Pirie, a Vice President of this Company, who conducted the negotiations at Caracas on behalf of All America Cables, has written

⁵ Not printed.

to express his appreciation of the co-operation and assistance which he received at all times from the American Chargé d'Affaires, Mr. C. Van H. Engert, and I shall be greatly obliged if you will be good enough to convey to Mr. Engert an expression of my thanks and appreciation for his most valuable assistance.

I am [etc.]

J. L. MERRILL

811.7331A15/26

The Assistant Secretary of State (White) to the Secretary to the President (Akerson)

WASHINGTON, November 14, 1929.

MY DEAR MR. AKERSON: The Department has been informed that within a week or ten days the All America Cables Company will take over the operation of the cable system of Venezuela and this Company has requested that at that time the President send a message of greeting to the President of Venezuela.

You will recall that in the past upon the occasion of the opening of direct communication systems between the United States and various other countries notably Hungary, Cuba, and Spain, the President has been good enough to send such a message.

I therefore transmit herewith a copy of a communication which I should recommend be sent if the President approves. I shall be pleased to have this message sent to the President of Venezuela at the appropriate time, if the President so desires.

I am [etc.]

FRANCIS WHITE

[Enclosure]

*Message of the President of the United States to the President of Venezuela*⁶

Upon the occasion of the commencement of the operation of the cable system to Venezuela by the All America Cables, I wish to extend to you and to the people of Venezuela on behalf of myself and the people of the United States, sincerest good wishes for the prosperity and well being of the people of Venezuela.

⁶ The suggested message was approved and was transmitted to the All America Cables, Inc., who delivered it to President Perez on December 5, 1929 (811.7331 A15/27, 28, 29).

811.7331A15/30 : Telegram

President Perez to President Hoover

[Translation]

CARACAS, December 7, 1929.

[Received December 9.]

With the greatest pleasure I return to Your Excellency, in the name of the people of Venezuela and in my own name, the greetings which you sent me on the occasion of the All America Cables initiating cable service with Venezuela, it being a pleasure to renew to you on this occasion my best wishes for the prosperity of the American people and Your Excellency's personal happiness.

J. B. PEREZ

YUGOSLAVIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND YUGOSLAVIA, SIGNED JANUARY 21, 1929¹

Treaty Series No. 790

*Arbitration Treaty Between the United States of America and the Kingdom of the Serbs, Croats and Slovenes, Signed at Washington, January 21, 1929*²

The President of the United States of America and His Majesty the King of the Serbs, Croats and Slovenes,

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

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

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

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

The President of the United States of America:

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

His Majesty the King of the Serbs, Croats and Slovenes:

Mr. Bojidar Pouritch, Chargé d'Affaires ad interim of the Kingdom of the Serbs, Croats and Slovenes at Washington;

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

¹ Drafts of these treaties were handed to the Yugoslav Chargé on April 25, 1928, and were accepted by the Yugoslav Government without change (711.60h12A/1, 2, 7).

² In English and French; French text not printed. Ratification advised by the Senate, January 31, 1929; ratified by the President, February 14, 1929; ratified by the Kingdom of the Serbs, Croats and Slovenes, May 18, 1929; ratifications exchanged at Washington, June 22, 1929; proclaimed by the President, June 22, 1929.

ARTICLE I

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

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

ARTICLE II

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

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

(b) involves the interests of third Parties,

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

(d) depends upon or involves the observance of the obligations of the Kingdom of the Serbs, Croats and Slovenes in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by His Majesty the King of the Serbs, Croats and Slovenes in accordance with the constitutional laws of that Kingdom.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously

unless and until terminated by one year's written notice given by either High Contracting Party to the other.

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

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

FRANK B. KELLOGG [SEAL]

DR. BOJIDAR POURITCH [SEAL]

Treaty Series No. 791

*Conciliation Treaty Between the United States of America and the Kingdom of the Serbs, Croats and Slovenes, Signed at Washington, January 21, 1929*³

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

The President of the United States of America:

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

His Majesty the King of the Serbs, Croats and Slovenes:

Mr. Bojidar Pouritch, Chargé d'Affaires ad interim of the Kingdom of the Serbs, Croats and Slovenes at Washington;

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

ARTICLE I

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

³ In English and French; French text not printed. Ratification advised by the Senate, January 31, 1929; ratified by the President, February 14, 1929; ratified by the Kingdom of the Serbs, Croats and Slovenes, May 18, 1929; ratifications exchanged at Washington, June 22, 1929; proclaimed by the President, June 22, 1929.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

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

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by His Majesty the King of the Serbs, Croats and Slovenes in accordance with the constitutional laws of that Kingdom.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange

of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

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

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

FRANK B. KELLOGG [SEAL]

DR. BOJIDAR POURITCH [SEAL]

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